United Nations CRC/C/SR.2084

Convention on the Rights of the Child

Distr.: General
1 February 2016

Original: English

Committee on the Rights of the Child
Seventy-first session

Summary record of the 2084th (Chamber A) meeting
Held at the Palais des Nations, Geneva, on Thursday, 21 January 2016, at 10 a.m.

Chair: Ms. Aldoseri (Vice-Chair)

Contents

Consideration of reports of States parties (*continued*)

Combined second and third periodic reports of Brunei Darussalam

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-00952 (E) 290116 010216

Please recycle

In the absence of the Chair, Ms. Aldoseri, Vice-Chair, took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Combined second and third periodic reports of Brunei Darussalam (CRC/C/BRN/2-3; CRC/C/BRN/Q/2-3 and Add.1)

1. *At the invitation of the Chair, the delegation of Brunei Darussalam took places at the Committee table.*

2. **Ms. Abdul Jalil** (Brunei Darussalam) said that her country had undertaken various initiatives over the previous decade to enhance its implementation of the Convention. It was in the final stages of ratifying the Convention on the Rights of Persons with Disabilities and had withdrawn its reservations to article 20, paragraphs 1 and 2, and article 21, subparagraph (a), of the Convention on the Rights of the Child. However, it retained its reservations to provisions of the latter Convention that might be contrary to the beliefs and principles of Islam, specifically article 14, article 20, paragraph 3, and article 21, subparagraphs (b) to (e).

3. The Ministry of Culture, Youth and Sports coordinated the implementation of action plans carried out by various inter-agency consultative bodies to promote and protect children's rights. That ensured an integrated approach to the implementation of the Convention and enabled the early detection of high-risk cases involving vulnerable children. Issues relating to children had previously been addressed through the action plans of various special committees set up under the National Council on Social Issues. However, in December 2015, the Council had decided that children's issues should be handled separately, with a focus on the implementation of the Convention.

4. Brunei Darussalam had recently developed the National Child Online Protection Framework, the implementation of which was coordinated by the Child Online Protection Committee. In line with the Children and Young Persons Act, the Ministry of Culture, Youth and Sports was working with government and non-government stakeholders to streamline the mandates of various child protection action teams in order to improve their effectiveness and prevent the duplication of resources.

5. Her country provided free universal primary education and free secondary education for citizens and permanent residents. As a result, enrolment rates and youth literacy stood at almost 100 per cent. Nevertheless, measures had been taken to further improve school attendance, including with the introduction of a system to monitor attendance electronically. Cooperation with relevant stakeholders, including NGOs, had strengthened State efforts to target absenteeism.

6. The inclusion in the regular classroom of students with special physical and mental needs had a long history in Brunei Darussalam. Since 2008, nine Model Inclusive Schools had been established. They were equipped with specialized resources to enable students to actively participate in the classroom and acquire relevant skills. Government efforts to promote the rights and welfare of persons with disabilities were reinforced by several NGOs, including one devoted to participation in the Special Olympics by athletes with disabilities and others for the hearing-impaired and those with Down Syndrome. Annual grants totalling approximately US$ 206,000 and plots of land on which to build their permanent premises were also provided to NGOs working with persons with disabilities.

7. In October 2014, the National Strategy of Maternal, Infant and Young Child Nutrition had been launched. A strong emphasis had been placed on breastfeeding; the Ministry of Health had set the target of a 50 per cent exclusive breastfeeding rate by 2020. Brunei Darussalam collaborated on children's issues with stakeholders at the

regional level. In 2014, it had organized a training workshop to build capacity among the countries of the Association of Southeast Asian Nations (ASEAN) in the area of children's rights. In 2015, ASEAN leaders had adopted the Regional Plan of Action on the Elimination of Violence against Children, which would guide national and regional efforts to ensure children's welfare and protection.

8. While her country was committed to fulfilling its obligations under the Convention, it had limited technical expertise in implementing child protection strategies and would therefore welcome assistance from the United Nations system.

9. **Ms. Muhamad Shariff** (Country Rapporteur) said that the State party should consider reviewing its remaining reservations to the Convention.

10. She asked whether measures would be taken to improve the State party's mechanism for the collection and consolidation of disaggregated data relating to children, in particular vulnerable children. Referring to the Committee's previous concluding observations, she expressed concern about the effectiveness of the State party's monitoring of the implementation of the Convention and the lack of an independent monitoring mechanism with a mandate to receive individual complaints from children. Would measures be taken to address those failings? She would also welcome information on the budget allocated to implementing the Convention.

11. The dissemination of the Convention in the State party, in particular among vulnerable children, people living in rural areas and professionals working in the area of children's rights, was inadequate. She requested more information on measures taken to raise awareness of the Convention, improve the understanding of its application and provide relevant professional training.

12. She would welcome examples of cases in which the best interests of the child had been taken into account by administrative, legal and judicial bodies. Were children able to express their views in custody and disciplinary cases? It would be interesting to know to what extent children's views were considered and addressed by the Government and whether they had the opportunity to serve on advisory bodies. She would also welcome a comment on the fact that mothers in Brunei Darussalam did not enjoy the same right as fathers to confer their nationality on their children. Lastly, she asked what measures were being taken to promote the safe use of the Internet by children and to protect children from abuse, neglect and exploitation.

13. **Mr. Nogueira Neto** (Country Rapporteur) said that he would like to have more information on the content and implementation of the Syariah Penal Code Order and how that legislation would affect children in the State party. He asked whether the State party intended to prepare and implement a comprehensive policy that addressed the needs of children and was supported by adequate financial, technical and human resources. He also wished to know how the State party guaranteed that the National Council on Social Issues was provided with sufficient resources to effectively monitor the implementation of the Convention and how civil society was involved in the planning and implementation of initiatives to protect children's rights.

14. He asked whether there were plans to develop a comprehensive strategy to eliminate discrimination against all children and how the law protected marginalized children. Would the State party consider enacting legislation that guaranteed the right of all children to freedom of thought, conscience and religion? Such legislation might be supported by awareness campaigns aimed at combating intolerance and promoting religious dialogue.

15. He wished to know whether the State party was considering the prohibition of corporal punishment in all settings. How would it ensure that relevant legislation was implemented effectively and legal proceedings systematically brought against those

who inflicted corporal punishment on children? Were there any plans to conduct programmes to raise awareness of the damaging psychological and physical effects of corporal punishment and promote alternative disciplinary measures?

16. **Ms. Sandberg** said that she would be interested to know how many cases of child abuse had been reported through the children's helpline and how those calls had been followed up. Overall, the number of cases of domestic violence against persons under the age of 18 reported in 2014 seemed very low, which could suggest that many cases had gone unreported. She asked whether there was a culture of silence surrounding child abuse, in particular sexual abuse, and how easy it was for children to report such incidents.

17. **The Chair** expressed concern about the practice of female genital mutilation in the State party, in particular in the Muslim community. Were any practical measures being taken to prohibit and criminalize that harmful practice? With regard to the differing minimum ages of marriage stipulated in domestic laws, she asked whether measures were being taken to harmonize the legislation and set the minimum age of marriage for all children at 18 years.

18. **Mr. Gastaud** said that he was concerned that the authorities in Brunei Darussalam were not respecting the right to freedom of religion, as provided for in the Convention. A comment on what steps the Government was taking to prevent repression on grounds of religion would be appreciated.

19. **Ms. Aho Assouma** said that she wished to know what efforts were being made to ensure the birth registration of all children, particularly those in rural areas. She was also concerned that, during the period in which an abandoned child who had been reported to the authorities awaited adoption, the child did not possess any official name. Certain population groups were unclear on the procedure for registering a child's birth and she asked whether awareness-raising campaigns had been launched in that regard.

20. **Ms. Abdul Jalil** (Brunei Darussalam) said that it was difficult to ascertain exactly how much of the State budget was set aside to implement the Convention. Each ministry had its own budget, but the issue of children's rights was multisectoral and, therefore, it was not easy to calculate overall expenditure across the various ministries. The Government hoped to move towards a more streamlined form of budgeting. National data collection was carried out on the basis of the United Nations standard international age classifications. Discussions were taking place with the national statistics centre and with the police to further improve data collection.

21. **Ms. Abdul Hamid** (Brunei Darussalam) said that awareness-raising programmes regarding the Convention had been launched by the Department of Community Development. Universal Children's Day was celebrated annually, the Government received technical support from United Nations agencies for children's programmes and the Convention was circulated among NGOs and State bodies. Civil society organizations, such as the National Council of Social Welfare, held national forums and consulted with Government agencies on issues pertaining to children's rights. Regional meetings on the Convention were also organized. Juvenile court magistrates had not so far received formal training on children's rights but some had been sent to judicial institutions in Singapore and New Zealand to observe their juvenile justice system and to incorporate the best practices of such overseas systems into domestic procedures.

22. **Mr. Lim** (Brunei Darussalam) said that the Ministry of Education had incorporated the teaching of human rights into the school curriculum and that a peer guidance course had been developed in order to promote awareness of children's rights.

23. **Ms. Abdul Jalil** (Brunei Darussalam) said that human rights were also promoted through inter-agency consultations with NGOs and civil society. The ASEAN Intergovernmental Commission on Human Rights had fostered a better understanding of human rights institutions.

24. In response to a question from **Ms. Sandberg**, she said that the Government did not have an independent monitoring system through which children could lodge complaints, as stipulated in the Paris Principles, but they could do so via a helpline.

25. **Ms. Sulaiman** (Brunei Darussalam) said that domestic laws on the marriage of minors were being reviewed to ensure that they were not inconsistent with obligations under the Convention, the Constitution and sharia law. Persons who wished to marry before the age of 18 required the consent of a parent or guardian, regardless of whether they were Muslim or not, in accordance with the Islamic Family Law Act and the Marriage Act. Both parties had to understand their rights and responsibilities before entering into marriage and Muslims were required to take a premarital course. The Government did not at present have statistics on the number of persons who married before reaching the age of 18.

26. Under the Children and Young Persons Act, the best interests of the child were taken into consideration in cases of custody and adoption. However, the law did not specify an age at which the views of the child could be taken into account by the court. Under the Islamic Family Law Act, a child of sufficient maturity could choose with which parent he or she wished to live in cases of divorce; the child's level of maturity was assessed by the judge.

27. **Ms. Abdul Jalil** (Brunei Darussalam) said, in response to a remark by **Ms. Sandberg**, that the Government would consider the Committee's recommendation that the minimum age of marriage should be set at 18 years, regardless of the religion to which a person belonged.

28. **Ms. Alawi** (Brunei Darussalam), responding to a question by **Ms. Muhamad Shariff**, said that in cases of pregnancy before marriage, a judge might rule in favour of allowing minors to marry in order to ensure the best interests of the child and the mother.

29. **Ms. Sulaiman** (Brunei Darussalam) said that if the pregnancy of the minor was a result of rape, the judge would not necessarily agree to the minor marrying her attacker. In such instances, judges ruled on a case-by-case basis.

30. **Ms. Aho Assouma** said that, despite the delegation's claims that it was possible for a girl who had become pregnant to continue with her education, it would seem difficult for her to maintain the household, look after a child and attend school. She asked whether the Government had introduced measures to support young girls in such a situation.

31. **Ms. Sulaiman** (Brunei Darussalam) said, in response to remarks by **Ms. Sandberg**, that different conditions were imposed on minors entering into marriage depending on whether the parties were Muslim or not. Under the Islamic Family Law Act, a judge was required only to obtain consent from the couple and the consent of the *wali nasab* or *wali Hakim* (person appointed to give away a woman in marriage). However, under the Marriage Act, the judge could decide whether to grant the minors in question the right to marry.

32. **Mr. Lim** (Brunei Darussalam) said that pregnant girls usually came from socioeconomically deprived family backgrounds, so it would be unduly harsh to deny them the opportunity to continue their education. Under the Compulsory Education Act, they were required to return to school if they were under 15 years of age, but if they were older, they could choose whether or not to continue their education.

33. In reply to a question from **the Chair**, he said that children's views were taken into account by the relevant authorities, although there was no centralized platform for their expression. Schools had set up prefects' councils and similar bodies.

34. **Mr. Gastaud** asked whether children could be members of councils that expressed opinions on such matters as the curriculum, timetables or premises.

35. **Ms. Abdul Hamid** (Brunei Darussalam) said that the Child Online Protection Committee, which had been appointed to deal with the problem of inappropriate material on the Internet, contained representatives of various sectors and reported to the Ministry of Culture, Youth and Sports. It operated regular programmes on keeping children safe from cybercrime and bullying online.

36. **Ms. Abdul Jalil** (Brunei Darussalam) said that a helpline was available for children in the event that they did not want to speak to the police. It was operated by trained social workers.

37. **Ms. Adbul Hamid** (Brunei Darussalam) said that the helpline was open 24 hours a day, 365 days a year, staffed by trained social workers. Once a report was received, it could be referred to the relevant authorities. Children could also express their concerns on the Facebook page of the counselling section of the Department of Community Development.

38. **Ms. Abdul Jalil** (Brunei Darussalam) said that, under the Children and Young Persons Act, it was an offence to abuse, assault, neglect, abandon or expose a child to treatment that might cause physical or emotional harm or to leave a child without reasonable supervision.

39. **Ms. Sandberg** asked what the situation was in practice.

40. **Ms. Sulaiman** (Brunei Darussalam) said that, under the Code of Criminal Procedure, young offenders were subject to the type of light whipping, not exceeding 18 strokes, that might be administered as part of school discipline. Where there was a serious case of corporal punishment in the home, the perpetrator could be prosecuted.

41. **The Chair** asked whether corporal punishment was prohibited in schools.

42. **Mr. Lim** (Brunei Darussalam) said that it had been prohibited since 1984.

43. **Mr. Gastaud** asked whether anyone had been prosecuted for flouting that rule.

44. **Ms. Sandberg** added that, according to a teacher's handbook circulated to all teachers by the Government, corporal punishment could be administered by school principals.

45. **Mr. Rodríguez Reyes** asked whether the State party would consider eliminating corporal punishment altogether and, if not, why not.

46. **Ms. Sulaiman** (Brunei Darussalam) said that no consideration had been given to the matter and no debate had been held.

47. **Mr. Rodríguez Reyes** asked what was preventing such a debate from being held. There was a universal consensus that corporal punishment should be abolished. It was regrettable that the State party seemed to have an intransigent position on the matter.

48. **Ms. Abdul Jalil** (Brunei Darussalam) said that the matter would be put to the National Council on Social Issues, which dealt with issues relating to children.

49. **Ms. Sulaiman** (Brunei Darussalam) said that the sharia Criminal Code had been adopted in 2013 and the first phase of implementation had begun on 1 May 2014. Accordingly, the only sentences currently enforced were those punishable by a fine or imprisonment. Children between the ages of 15 and 18 were subject to the types of

punishments known as *hadd* and *qisas*, except where the child was not able to understand the issue or had not attained the age of puberty. There was a high evidentiary burden in such cases, however — namely, the commission of the offence had to be proved beyond all doubt. All the rights of the accused were protected at every stage of the proceedings.

50. **Ms. Aho Assouma** asked whether punishments could involve the cutting off of hands or feet and whether such punishments could be imposed on a child.

51. **Ms. Alawi** (Brunei Darussalam) said that such punishments were not yet applied, because the second stage of implementation of sharia law had not yet been reached. In any case, children under 15 or children not of sound mind were not subject to such punishment.

52. **Ms. Abdul Jalil** (Brunei Darussalam) said that the National Council on Social Issues did not have its own budget: its purpose was to coordinate the activities and programmes of various ministries that already had had their resources allocated. It ensured that all ministry programmes were regularly monitored.

53. **Ms. Abdul Hamid** (Brunei Darussalam) said that collaboration with NGOs was a long-established practice in Brunei Darussalam. NGOs were regularly consulted about proposals for legislation and took part in inter-agency consultations. Many NGOs working to promote children's welfare were supported by the Government. Such support either took the form of an annual grant or was project-based. NGOs took part in meetings and workshops to exchange experiences and best practices on such issues as criminal justice, education, children in poverty or violence against children.

54. **Ms. Sulaiman** (Brunei Darussalam) said that there was no discrimination between groups of children; all were equal before the law.

55. **Ms. Sandberg** asked what the situation was in practice and in what ways attitudes and cultural stereotypes could be changed. In particular, she would be grateful to hear what action was taken to protect children with a different sexual orientation or gender identity from discrimination.

56. **Ms. Osman** (Brunei Darussalam) said that the delegation would provide statistics on cases of sexual abuse of children. It was less common for children to telephone the helpline than to text the authorities. If the police, a school or a hospital received a report on sexual abuse or violence, they got in touch with the Department of Community Development, which was the lead agency dealing with such matters. The Department then joined in the investigation of the incident and sought the best way forward. The Department issued an annual information booklet on how children should be protected from all forms of violence.

57. **Ms. Sandberg** asked whether the reporting of domestic violence by children was considered taboo, how complaints were investigated and whether measures were in place to assist children who had been neglected or exposed to sexual abuse in the family.

58. **Ms. Osman** (Brunei Darussalam) said that, thanks to awareness-raising initiatives, children felt comfortable about reporting instances of abuse, as evidenced by the significant number of complaints that had been filed in recent years. Children who were removed from their family environment after suffering abuse were entrusted to other relatives or offered temporary accommodation by the State for the duration of the proceedings against their parents or guardians.

59. **The Chair** requested information, including statistics, on the number and nature of the complaints and on the punishments handed down to perpetrators.

60. **Ms. Osman** (Brunei Darussalam) said that information on punishments was not available, but that data on the number and nature of complaints would be sent to the Committee in due course.

61. **Ms. Abdul Jalil** (Brunei Darussalam) said that the Government supported calls by the World Health Organization (WHO) for the elimination of female genital mutilation (FGM) and for the enactment of legislation to protect women and girls from all forms of violence. It had some reservations, however, about the WHO definition of type 1 FGM (clitoridectomy). Female circumcision as practised in Brunei Darussalam was not harmful and did not constitute FGM, which was punishable under the Criminal Code.

62. **Ms. Abdul Jalil** (Brunei Darussalam) said that, although Brunei Darussalam was an Islamic country, non-Muslims were free to practise their religion without restriction, in accordance with the Constitution.

63. **Mr. Gastaud**, noting that there had been confirmed cases in which public Chinese and Christian celebrations had been prohibited or curtailed, asked whether steps would be taken to prevent similar restrictions from being imposed in the future.

64. **Ms. Abdul Jalil** (Brunei Darussalam) said that religious minorities were free to organize festivities in their homes, in the community and in their places of worship. Moreover, Chinese New Year and Christmas Day were national public holidays. In the cases referred to by Mr. Gastaud, publicly displayed decorations had been taken down to protect the sensibilities of the Muslim population.

65. **Mr. Gastaud** asked whether the Government had taken into account the sensibilities of the Chinese and Christian populations.

66. **Ms. Abdul Jalil** (Brunei Darussalam) said that the Government respected the rights of religious minorities, most of which had never complained and had complied with legislation related to public displays of faith. The decorations in question had been taken down not to restrict the activities of minorities but to ensure that Muslims did not imitate the customs and practices of other religions.

67. **The Chair** enquired about the nature of the events held to celebrate Christmas.

68. **Ms. Abdul Jalil** (Brunei Darussalam) said that all religious groups organized open-house celebrations to which friends of all faiths were invited. In 2015, the Sultan had attended Chinese New Year celebrations at the International Convention Centre in Berakas.

69. **Ms. Aho Assouma** invited the delegation to explain the disparity between the birth registration rates in rural and urban areas and to outline the measures taken to ensure that the births of foundlings were registered promptly.

70. **Ms. Ismail** (Brunei Darussalam) said that birth registration was compulsory and campaigns had been conducted to raise awareness of that requirement. Branches of the Immigration and National Registration Department had been opened in all districts of the country and were easily accessible even in rural areas.

71. **Ms. Ismail** (Brunei Darussalam) said that dual nationality was not recognized, but that women married to a foreign citizen and unmarried mothers, could apply for the country's nationality for her child.

72. **Ms. Abdul Hamid** (Brunei Darussalam) said that abandoned children were registered by the Department of Community Development and given a temporary name that appeared on their birth certificate until they were adopted.

73. **Ms. Sandberg** said that she wished to know what was being done to eradicate stereotypes about the role of women and girls in the family and to promote the equal

participation of mothers and fathers in their children's upbringing. The delegation should comment on the fact that, while polygamy was accepted, adultery was punishable by death. In particular, it should state whether the Government intended to take measures to rectify the situation.

74. She would appreciate information on abandoned children: where they were found, why they were abandoned and how easy it was for their mothers to do so. It would also be useful to know why children were placed outside their family, whether it happened frequently and what steps were being taken to prevent it. Details of the supervision of children who had been placed outside their family would also be welcomed.

75. She asked whether it was true that some adopted and foster children were made to perform work inside and outside the home and, if so, what was being done to address the problem. The delegation should also comment on the measures adopted to regulate intercountry adoption and explain why the Government had not yet ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

76. **Ms. Muhamad Shariff** asked how much stateless children and the children of migrant workers had to pay to access basic health services. She also requested statistics on children with disabilities, disaggregated by type of disability, and asked what rehabilitation programmes were in place for them.

77. She said that she wished to know whether it was true that there was a shortage of qualified health professionals in the State party and, if so, what steps were being taken to overcome the problem. She sought information on the length of maternity leave and on any breastfeeding initiatives that had been launched in the State party. The delegation should also state whether the Government was implementing the International Code of Marketing of Breast-milk Substitutes.

78. She wished to know whether adolescents had access to free reproductive health services on a confidential basis, whether there were many unwanted adolescent pregnancies and, if so, how they were handled. She asked whether abortion was legal in the case of pregnancies resulting from rape or incest, whether sexual and reproductive health education was part of school curricula and whether teachers received appropriate training in the subject.

79. She would welcome information on the mental health services provided to adolescents and children in hospitals, on the number of children seeking such services, on the number of children suffering from drug and substance abuse, on programmes to combat such abuse and on the number of children living with HIV/AIDS.

80. The delegation should describe the support provided to the residents of Kampong Ayer, state whether the Government intended to raise the age of criminal responsibility from 7 years to an internationally acceptable level, indicate whether flogging would be abolished as a form of punishment for boys and respond to concerns about the legal uncertainty caused by the coexistence of the Criminal Code and the sharia Criminal Code.

81. Noting that, according to paragraph 65 of the replies to the list of issues, juvenile court magistrates received no formal training in the field of juvenile justice, she encouraged the State party to provide adequate training to all members of the judiciary. On a different note, she said it would be helpful to know the extent to which stateless children were informed of their right to apply for citizenship.

82. Given that the State party had ratified the International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182), she asked whether the Government had drawn up a list of hazardous occupations in which children were

prohibited from working. Lastly, she invited the delegation to respond to concerns that the State party lacked a proactive system to identify victims of trafficking, particularly among vulnerable groups, that the use of children in prostitution was not criminalized and that there were no provisions prohibiting the use, procurement or offering of a child for pornography.

83. **Mr. Gastaud** requested the delegation to comment on reports that large classes were common in State schools and to describe what would be done to improve the situation. He said that he would also like to hear a response from the delegation to complaints from schoolchildren that they were subjected to rigorous discipline and afforded very little leisure time.

84. He wished to know what steps would be taken to ensure that all classrooms were accessible to children with disabilities, whether minority languages were taught in State schools and whether non-Muslims could be excused from Islamic religious education lessons.

85. **Ms. Aho Assouma** requested statistics on the maternal, infant and under-five mortality rates and enquired about programmes to prevent obstetric fistula. She also asked whether women who had undergone a caesarean section were monitored and given recovery kits.

86. She said that she would appreciate information on the protection and specialized health care given to victims of sexual abuse. With regard to HIV/AIDS, she enquired about the prevalence rate and about efforts to increase awareness among adolescents. The delegation should describe programmes to prevent mother-to-child transmission of HIV, to ensure that patients had access to antiretroviral therapy and to support orphans who were HIV-positive.

87. She asked what portion of the government budget was allocated to health, whether there were any specific programmes to tackle obesity and whether campaigns had been launched to promote healthy eating.

88. **Ms. Sandberg** asked whether a victim and witness protection programme had been established within the justice system, whether children could give evidence via video link and whether child victims and witnesses were assigned a social worker.

89. **Mr. Madi** invited the delegation to comment on the fact that, under the sharia Criminal Code, minors aged 15 to 18 years who were found guilty of theft could have one of their hands cut off as a punishment. He also asked whether the second phase of implementation of the Code could lead to the introduction of the death penalty for minors aged 15 to 18 years who committed serious crimes. Lastly, he said that he would be grateful for further details on the adoption process in the State party.

The meeting rose at 12.50 p.m.

United Nations CRC/C/SR.2085

Convention on the Rights of the Child

Distr.: General
25 January 2016

Original: English

Committee on the Rights of the Child
Seventy-first session

Summary record of the 2085th (Chamber B) meeting
Held at the Palais des Nations, Geneva, on Thursday, 21 January 2016, at 10 a.m.

Chair: Mr. Mezmur

Contents

Consideration of reports of States parties (*continued*)

Combined third to fifth periodic reports of Kenya

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-00953 (E) 250116 250116

Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Combined third to fifth periodic reports of Kenya (CRC/C/KEN/3-5; CRC/C/KEN/Q/3-5 and Add.1)

1. *At the invitation of the Chair, the delegation of Kenya took places at the Committee table.*

2. **Mr. Muigai** (Kenya), introducing his country's report, said that Kenya had ratified the Convention in 1990 and had continued to promote and protect the rights of children in the country ever since. About 53 per cent of the country's population was under the age of 18, and many of those children were vulnerable and in need of care and protection. The 2010 Constitution had enhanced the protection of children's rights through its provisions on, inter alia, citizenship by birth and social security. The Constitution defined a child as an individual who had not attained the age of 18 years; any law that was in conflict with that definition was deemed null and void. The Children Act of 2011 was currently under review, with a view to bringing it into line with the Constitution.

3. Recent efforts to give effect to children's rights included the adoption of the National Children Policy and the National Plan for Children in Kenya 2015-2022, which was part of the national development blueprint known as "Kenya Vision 2030". The latter focused on economic growth as a driver for success in the political, social and economic realms. It targeted orphans and vulnerable children as a special group.

4. Activities to care for and protect children were monitored and coordinated by the National Council for Children Services and were implemented by the Department of Children's Services in cooperation with relevant stakeholders.

5. With regard to children's right to survival, recent statistics showed decreases in infant mortality, stunting, new HIV infections among children and maternal mortality, along with an increase in immunization coverage. The Beyond Zero campaign, which promoted maternal, newborn and child health, was expected to bring about further improvements.

6. As for children's right to development, the Government had implemented free and compulsory basic education, resulting in an increase in enrolment rates in primary and secondary schools. The Special Needs Education policy framework aimed to provide a road map for the transition to an inclusive education system. The Constitution established safeguards and guarantees of children's right to protection from, inter alia, abuse, harmful cultural practices and hazardous labour. The Constitution and other legislation had strengthened the child protection system in several areas, including trafficking in persons, alternative family care and sexual exploitation.

7. As a result of judicial reforms, more children's courts had been established in Kenya, thereby improving access to juvenile justice. Measures had been taken to ensure universal birth registration, including the establishment of "one-stop shop" service centres to issue birth certificates for all children.

8. The involvement of children and young people in the drafting of the Constitution showed the importance attached by the Government to allowing children to participate meaningfully in decision-making processes. Guidelines on child participation had been drafted in cooperation with various stakeholders. The Kenya Children's Assembly provided regular forums where children could voice their concerns.

9. The remaining challenges in the quest to uphold the rights of the child included the large number of children living in poverty and the large number of orphans, which were due in large part to parental deaths from AIDS. The Child Labour Policy had been finalized and was currently under discussion by the National Assembly. The Government had also developed action plans to combat the trafficking and sexual exploitation of children.

10. The Government continued to increase its budgetary allocations for children's services. For example, it had overseen a huge increase in direct cash disbursements to orphans and vulnerable children in the previous decade. The Government was also raising awareness about the rights of persons, including children, with albinism and disabilities, with a view to changing cultural perceptions and attitudes towards them. At the same time, it was working to mitigate negative cultural practices: a law had been enacted prohibiting female genital mutilation; the Marriage Act had been adopted in 2014 in an effort to guard against child marriage; and the Protection against Domestic Violence Act adopted in 2015 provided protection and support for victims of domestic violence, including children.

11. Further measures to protect children from abuse included the establishment of a 24-hour, toll-free hotline, rescue centres and gender violence recovery centres. In order to prevent the recruitment of children to terrorist organizations, the Government was strengthening the capacity of school principals to deal with terrorism-related issues and was enhancing security through an initiative that emphasized community policing.

12. **Mr. Kotrane** (Country Rapporteur) asked whether the State party intended to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which it had signed in 2008, or the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

13. Given the recent setbacks in the legislative process to amend the Children Act, he wished to know the expected time frame for the adoption of a new law to replace the Act and whether that future law would address issues affecting vulnerable children, particularly orphans.

14. It seemed that the National Plan for Children in Kenya 2015-2022 was not yet being implemented and that it followed the same structure as the previous plan, which had done little to strengthen the coordination of actions to benefit children. Detailed information about the new plan would be welcome, including information on measures to combat geographical disparities in public services. He wished to know about any measures taken to ensure effective coordination between the National Council for Children Services and the relevant ministries and to support inter-institutional coordination at both the national and local levels. He also wished to know about any specific measures taken to combat corruption in areas such as health, education and justice and about any convictions or punishments handed down in corruption cases.

15. The Committee was concerned that the best interests of the child were not always taken into consideration within the judicial system, particularly in cases involving sexual offences. He asked what the State party was doing to ensure that the principle of the best interests of the child was applied uniformly in all dispute resolutions and decisions in both the formal and informal justice systems.

16. He asked what measures were being taken to ensure that children's assemblies at all levels were accessible to all children without discrimination and to involve those assemblies in the development of laws and policies affecting children and in the monitoring of their implementation.

17. He wished to know about any measures taken or planned by the State party to adopt a law guaranteeing universal and free birth registration for all children, including those from minority groups and those living in rural and remote areas. Expressing his concern about reports of children being subjected to police brutality, domestic violence, corporal punishment and harmful practices such as female genital mutilation, he asked what steps the State party was taking to develop a national strategy to prevent and address all forms of violence against children.

18. **Ms. Khazova** (Country Rapporteur) noted that, while several ministries collected data on children, there was no comprehensive system to collect information on the realization of all rights of the child. She asked whether the national database on children being developed with the assistance of the International Labour Organization (ILO) was operational yet and whether it covered all areas of a child's life.

19. She requested further information on the human and financial resources allocated to the Kenya National Human Rights and Equality Commission. She asked the delegation to comment on reports that laws had recently been adopted with the aim of restricting the activities of civil society organizations. Despite being prohibited by the Constitution, discrimination continued to take place in the State party, particularly against girls and certain minority groups. She asked whether the Government had planned any strong measures to eliminate discrimination in practice.

20. She would like to know if reports of the killing and trafficking of children with albinism for body parts were true and, if so, what was being done in that regard. Expressing concern that a number of harmful practices, including early marriage, the "beading" practice among the Samburu people, wife inheritance and female genital mutilation, were still widespread in certain regions, she asked what practical measures were being taken to eliminate them. With regard to female genital mutilation in particular, she wondered whether the problem was also being tackled from an economic point of view given that practitioners depended on it for their livelihood.

21. **Mr. Cardona Llorens**, noting that it was difficult to identify what budgetary resources were actually being allocated for children, asked whether there were any plans to introduce child-sensitive budgeting. Although the State party's economic growth rate had averaged approximately 5 per cent since 2010, funding for children had not increased accordingly. Did the Government plan to compensate for that deficit? What guarantees had been put in place to ensure that all counties compensated for the reduction in the State budget in certain areas, including health, and to reduce disparities between urban and rural and coastal and inland areas? Noting that the lack of regulation of the private sector could lead to problems such as the illegal dumping of toxic waste, other forms of pollution that harmed children's health and high levels of child labour that could have serious consequences on children's rights, he asked what measures were planned to develop a clear mandatory legal framework for companies operating in the State so as to ensure that their activities did not have a negative impact on children's rights or the environment.

22. **Ms. Oviedo Fierro** said that she had been surprised not to find a single reference to freedom of expression, religion or association in the State party's report. She expressed concern that, although provision was made for the participation and freedom of expression of children, their views were not taken seriously by everyone working in the children's sector. There were examples of restrictions on children's right to freedom of association and freedom of religion, such as a court ruling banning the wearing of the hijab in school. It was also a matter of concern that children did not have access to a complaint mechanism to report violence in the home, at school or in the community, and the perpetrators of such violence thus enjoyed impunity. She would welcome information on children's access to the Internet and social networks, what was being done to help them avoid the risks related to that activity and whether

parents and teachers were involved in protecting children from such risks. Did the Government plan to guarantee reliable funding to ensure the long-term viability of the children's helpline and did the information received through that helpline inform activities in the area of child protection?

23. **Mr. Nelson** asked what follow-up had been given to the recommendations made in the aftermath of the incident at Lang'ata Road primary school in January 2015, when police had used tear gas against children. Had the officers involved been prosecuted or disciplined and had the police riot manual been reviewed? He wished to know how many domestic violence cases involving children had been brought before the courts and what kinds of sentences had been handed down. Did the State party have a "no-drop" policy in relation to domestic violence cases, to ensure that all such cases were prosecuted? Had any teachers or other persons in authority been prosecuted for using corporal punishment and, if so, what sentences had been handed down? What measures were in place to support child victims of violence in making complaints and were there shelters for abused children?

24. **Ms. Ayoubi Idrissi** asked what measures the State party was taking to implement the decision of the African Committee of Experts on the Rights and Welfare of the Child concerning discrimination against Nubian children, who were refused the right to citizenship and were thus at risk of statelessness and unable to access public services.

The meeting was suspended at 11 a.m. and resumed at 11.25 a.m.

25. **Mr. Muigai** (Kenya) said that the question of ratifying the optional protocols to the Convention was under active consideration. Following the promulgation in 2010 of the new Constitution, which expressly provided that all international agreements to which Kenya was a party were an integral part of domestic law, a moratorium on the ratification of any instruments had been put in place pending a comprehensive review, which had now been completed. A treaty ratification bill had been drafted to clarify the procedure for ratification of international conventions, so that the State party was now in a position to begin ratifying a range of instruments, including the protocols to the Convention.

26. The Sexual Offences Act contained clear provisions on the protection of children from trafficking and prostitution. A voluntary code of conduct, which specifically covered the protection of children from prostitution, had been signed by hotels and other businesses in the tourism sector. Unfortunately, Kenya, and particularly Nairobi, continued to be an attractive transit point for human trafficking. The Counter-Trafficking in Persons Act had been adopted to address the phenomenon and special anti-trafficking units had been set up. Although there were no major legal lacunae in that area, the Government recognized the need to ratify the Optional Protocol on the sale of children, child prostitution and child pornography.

27. With regard to the revision of the Children Act, it had been found, upon closer examination and following extensive consultations, that more than 90 sections required amendment. A consensus had been reached that it would be more sensible simply to draft a whole new piece of legislation rather than amend the existing one. An initial draft of the new bill had now been prepared and was expected to be finalized within the next year.

28. **Ms. Karanu** (Kenya) said that there had been extensive consultation in preparing the National Plan of Action for Children 2015-2022 to ensure that all organizations and agencies providing services to children in Kenya followed a standardized approach and felt a sense of ownership of the plan. The priority now was to raise awareness and disseminate the plan as broadly as possible. A monitoring framework had been developed to provide for a review of the plan's implementation

every three years. In order to ensure that county governments were also involved in implementing the plan, area advisory councils had been set up, with members drawn from civil society, religious organizations and the county government departments.

29. **Ms. Ngugi** (Kenya) said that the Ministry of Labour, Social Security and Services had been given responsibility for children's issues, rights and protection. The National Council for Children Services had been set up under the Ministry and included representatives of NGOs, faith-based organizations and the private sector. The Council exercised general supervision, planned finances, coordinated activities and advised the Government on all aspects relating to children. The main task of the Ministry's Department of Children's Services was to implement the policies drawn up by the Council.

30. **Mr. Muigai** (Kenya) said that corruption was a matter of grave concern in Kenya and the Government was taking strong action to tackle the problem. He had chaired a task force set up by the President to review the entire legal, institutional and police framework for combating corruption; the task force had recently produced an extensive report proposing numerous legislative and institutional changes. A new slate of legislation would be submitted to parliament in the coming days, including a new bribery law and whistle-blower protection law. A judicial vetting process begun when the new Constitution had been adopted in 2010 had recently been completed; all judges and magistrates serving in the Kenyan judiciary had been vetted, and many had subsequently been relieved of office. Only the day before, the Police Service had dismissed seven very senior police officers following a similar vetting process. Even as the State party report was being submitted, five government ministers had been relieved of their duties because they were under investigation for alleged corruption.

31. **Ms. Oguye** (Kenya) said that the Kenya Children's Assembly had been established in 2012 and was strong and active at the national, county and sub-county levels. The Assembly was gender-balanced and included at least one child with special needs. Meetings were conducted by the children without any interference from adults. Efforts were also made to ensure the participation of Kenyan children in international and national forums. International, regional and national days, such as the Day of the African Child, were observed, and children were invited to speak at and participate in events organized to mark those occasions. Policymakers paid attention to issues that arose in the Children's Assembly and other children's forums, such as negative cultural practices.

32. **Mr. Masese** (Kenya) said that the registration of births in Kenya was guided by the Constitution, which stated that any child under 8 years of age whose nationality and parentage were unknown was presumed to be a citizen by birth and therefore entitled to a birth certificate, and by the Births and Deaths Registration Act, which provided for the immediate registration of all births occurring in Kenya. There was no discrimination in that regard against ethnic Nubians living in Kenya. Their children received birth certificates.

33. Corporal punishment in schools had been outlawed by the Basic Education Act. The Marriage Act of 2014, for its part, had outlawed child marriage. Since its entry into force, anyone who married a person under the age of 18 was subject to imprisonment for up to 5 years or a fine of up to roughly US$ 10,000, or both. In addition, the Sexual Offences Act criminalized sex with children.

34. **Ms. Khazova** asked whether the Kenyan authorities believed that a mere legal prohibition was sufficient to abolish a practice — namely, child marriage — that had existed for centuries.

35. **Ms. Ayoubi Idrissi** said that she was aware that under Kenyan law all children had the right to a nationality and an identity. Cases brought before the African

Committee of Experts on the Rights and Welfare of the Child, however, had suggested that children of Nubian background had been denied birth certificates. She wished to know what the State party was doing to ensure that laws providing for the registration of all births in Kenya were properly enforced.

36. **Mr. Muigai** (Kenya) acknowledged that delivering birth certificates to children from minority groups resident in the country had often posed challenges. East Africa had a long history of porous borders, and Kenya was home to the world's largest refugee population. Indeed, two of the world's two largest refugee camps were located in Kenya. They were the size of major cities. Refugees in Kenya had come from Somalia, South Sudan and countries of the Great Lakes Region such as Burundi, Rwanda and the Democratic Republic of the Congo. On some occasions, people had fraudulently obtained Kenyan identity documents, including birth certificates. It had therefore become necessary to set up verification processes to ensure that such documents were delivered only to those who were entitled to them.

37. In any event, the Government had made a public commitment to resolving the issues faced by the Nubian and Somali minorities. The Government had also publicly stated that, for all practical purposes, the Makonde people were to be considered citizens of Kenya.

38. It was true that traditional social practices and the law were sometimes at odds. Kenyan lawmakers had therefore created a legal framework to take effective action against such practices as female genital mutilation and child marriage. The actions taken involved a considerable amount of advocacy, as it was often difficult for the Government to act without the help of local communities. As a result, child marriage, like female genital mutilation, was in retreat. It was the proponents of such practices, rather than their opponents, who were currently on the defensive.

39. The problem of attacks against and killings and trafficking of children with albinism was not nearly as serious as in some other countries in the region. A number of prominent Kenyans, including a High Court judge, were themselves living with albinism. He did not mean to suggest, however, that there was no more work to be done in that area, as the goal was to eliminate the problem altogether.

40. **Ms. Karanu** (Kenya) said that Kenya was still at the beginning of the process of developing a national database on children. In that connection, a number of relevant indicators had been defined.

41. **Ms. Oguye** (Kenya) said that the Department of Children's Services was working on a child protection information management system. Plans had been made to roll it out on a trial basis in 10 of the country's counties. In one of those counties, Kilifi, on the coast, there was a special system of using mobile telephones to report acts of violence against children. The Department of Children's Services was testing ways of feeding such reports into the information management system currently being developed. The aim was to ensure that even problems occurring in remote areas could be addressed.

42. **Mr. Muigai** (Kenya) said that legislation on the administration and operations of NGOs was still the subject of discussion. The aim of the legislation was not to restrict their activities but to provide for a transparent governance framework. NGOs whose activities had appeared to contribute to the radicalization of young people and the financing of terrorism had prompted concern. In response, it had seemed necessary to draft a law addressing such issues as who could run an NGO and what information NGOs were required to disclose. Plans had also been made to require more information from religious organizations. The legislation being discussed had not been designed to weaken the country's vibrant civil society organizations, of which the

country was rightly proud. On the contrary, the Government was of the view that it was in the best interests of the Kenyan people, and children in particular.

43. **Mr. Amoth** (Kenya) said that budget allocations for education had increased in recent years. Indeed, education expenditures were the single largest item in the national budget. Allocations to the Ministry of Health appeared to be decreasing, but appearances could be deceiving, as responsibilities for health had been devolved to the counties, where it was likely that allocations had increased, although by how much would not be clear until some time after July 2016, when the national health accounts were to be audited. A five-year health plan targeting mothers and their children was expected to involve an investment of some US$ 750 million.

44. **Mr. Cardona Llorens** asked whether the devolution of health expenditures to the counties had not increased the already significant inequalities between the coast and the highlands and between rural and urban areas. He also asked whether the authorities planned to draft budgets in such a way as to make it possible to identify more clearly the amounts earmarked for the implementation of specific children's rights.

45. **The Chair** asked whether he had understood correctly that, as a result of devolution, the recent drop in health expenditures of 14 per cent did not necessarily mean that there had been budget cuts to the health sector.

46. **Mr. Amoth** (Kenya) said that the audit planned for mid-2016 would shed light on how much each county had spent and for what particular programmes.

47. **Mr. Muigai** (Kenya) said that although health was a devolved function, the national Government provided budgetary support for county programmes relating, for instance, to maternal health care. It also provided special support to hospitals serving more than one county.

48. Kenyan children enjoyed the rights to freedom of expression, association and religion. In one case, a court had upheld the right of a school to ban the wearing of the hijab. That ruling had been appealed, however, and the authorities were awaiting the decision of the appeals court. Kenya was proud of its religious diversity, and the Government had no wish to curtail anyone's freedom to profess the religion of his or her choice.

49. **Ms. Karanu** (Kenya) said that the children's telephone helpline was a collaborative project between Childline Kenya and the Government. It provided the services of trained counsellors free of charge and no breaches of confidentiality had been reported. The funding partnership was coming to an end and the Government was currently considering how to maintain the helpline in the future.

50. **Mr. Muigai** (Kenya) said that the Government was aware that, despite its best efforts, some cases of violence against children still occurred in homes, in schools and at the hands of the police. In the unfortunate incident referred to by Mr. Nelson, students at Lang'ata Road primary school protesting against the appropriation of part of their school grounds had blocked a major road and the police had responded with an unacceptable use of tear gas. However, the officers concerned had been removed from their posts and subjected to disciplinary proceedings. The incident was not representative of government policy and the law clearly prohibited any violence by the police, whether against children or adults.

51. Sentences under the Sexual Offences Act included mandatory minimum periods of imprisonment for persons found guilty of sexual offences against minors. It had been supposed that the offenders concerned would all be adults, but the Act was now also being used against teenagers. Where sexual relations, even consensual, between adolescents had come to the knowledge of their families or community, the girl might

be coerced into lodging a complaint and a teenage boy could thus end up serving a sentence of 20 years in prison. Furthermore, sexual offences were defined as felonies and so negotiations between the parties could not be used to resolve the matter out of court, as was allowed in the case of misdemeanours. Hence thought was now being given to finding a solution to that problem. However, it was true that some cases of sexual offences were dropped before reaching the judicial stage and the communities concerned needed to be empowered and encouraged to follow them through. In respect of corporal punishment, both families and teachers were aware that it was prohibited and, although cases did still occur, the numbers were declining.

52. **Ms. Khazova**, noting that gender inequality and a lack of parent counselling services still led to imbalances between parents in terms of rights and duties, asked whether any measures were planned to improve the enforcement of child maintenance orders, particularly in light of the recent legalization of polygamy, which meant that a man might have several wives and many children. Did Kenya intend to accede to the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance? She would also be interested to know whether a woman who entered into a monogamous marriage could be sure that it would not subsequently become polygamous.

53. She asked how the Government planned to address the lack of proper oversight of institutions catering for orphans and other vulnerable children and the absence of any complaints mechanism to which the children could turn. She would welcome information on progress in amending the Children Act and particularly whether the more than 1,500 children whose mothers were in prison were able to maintain permanent contact with them.

54. Substantial disparities had existed in the past between the different regions in terms of health-care services and it might be expected that the devolution of the health system would exacerbate the situation. Did the Government have plans for the rapid implementation of remedial measures should serious problems be brought to light when the first post-reform figures were announced? She would welcome information on how it would ensure that early childhood education, responsibility for which had also been devolved to the regions, was not adversely affected by the reform. School enrolment seemed to be a problem in the semi-arid areas of the country and in informal settlements. Private providers were not properly registered or monitored and the standard of education provided tended to be very low. One company in particular, Bridge International Academies, had 400 schools in the country catering for more than 120,000 children, with no guarantee of quality. Did the Government's educational guidelines include mandatory instruction on human rights and children's rights in all schools and, if so, how did the Government intend to enforce them? She would be interested to know whether education was provided free of charge for children who did not have Kenyan nationality. Since birth certificates now had to be produced to ensure that children were not too young when they started school, how did the Government intend to prevent enrolment rates falling where children's birth certificates were not available?

55. **Mr. Kotrane** said he would be interested to hear whether sporting and cultural activities were freely available to all children. He also wished to know what was being done to protect the rights of children in long-term refugee camps where insecurity was an increasing problem, and to respect children's right to family reunification. Noting that the problem of radicalization, including of children, might be linked to the marginalization of some ethnic or religious groups, he asked what the Government was planning to do to address that issue and to ensure that police officers respected children's rights when taking action in such cases. He would appreciate information on plans to address the economic exploitation of children, including in domestic

labour, which could be linked to child trafficking. Noting that the age of criminal responsibility remained at 8 years, he said that he would welcome information on the rather slow introduction of international standards of juvenile justice into the Kenyan justice system, and on how a balance was being sought between the need for justice and respect for the rights of the child.

56. **Mr. Cardona Llorens** said he would be interested to know what had happened to those children with disabilities who had been abandoned by their families but were not cared for in institutions and to the 99,000 children with disabilities who did not attend any type of school. He also inquired about the provision made for children with mental disabilities or albinism, who were not covered by the schools mentioned in the infor nation provided.

57. **Ms. Oviedo Fierro** said she would like to know whether reports of a rise in the number of teenage pregnancies were true and what the reason for such an increase might be. She asked what was being done to improve the experience of young girls trying to access health and abortion services when pregnant, as it seemed that conditions were frequently substandard and the girls were often treated badly by the staff. The information given on the legal situation surrounding abortion was not clear: it was apparently permitted under the Constitution in emergency cases but was prohibited under the Penal Code. What was being done in general to prevent maternal mortality in adolescent girls?

58. She requested data on the number of young people affected by illegal drug use, the number of child and adolescent suicides, and what was being done to improve mental health services for young people. What measures were being taken to prevent discrimination against, promote the integration of, and provide support to children and adolescents affected by HIV/AIDS? Details would also be welcome on sex education in schools and whether it was provided in all areas of the country, including the most remote areas and those with vulnerable populations.

59. **Ms. Khazova** asked whether a commissioner dealing with children's rights would be able to access enough resources to operate effectively.

60. **The Chair** asked whether reports that immunization rates were in decline and poor sanitation was the country's biggest challenge were true and, if so, what the Government planned to do to improve the situation, specifically in the context of the devolution of the health system.

The meeting rose at 1 p.m.

United Nations CRC/C/SR.2086

Convention on the Rights of the Child

Distr.: General
1 February 2016

Original: English

Committee on the Rights of the Child
Seventy-first session

Summary record of the 2086th (Chamber A) meeting
Held at the Palais des Nations, Geneva, on Thursday, 21 January 2016, at 3 p.m.

Chair: Ms. Aldoseri (Vice-Chair)

Contents

Consideration of reports of States parties (*continued*)

Combined second and third periodic reports of Brunei Darussalam (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-00954 (E) 290116 010216

Please recycle

In the absence of the Chair, Ms. Aldoseri, Vice-Chair, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports of States parties (*continued*)

Combined second and third periodic reports of Brunei Darussalam (continued) (CRC/C/BRN/2-3; CRC/C/BRN/Q/2-3 and Add.1)

1. *At the invitation of the Chair, the delegation of Brunei Darussalam took places at the Committee table.*

2. **Ms. Ismail** (Brunei Darussalam) said that her Government was fully committed to continuing its efforts to ensuring that births were properly registered throughout the country, including in remote areas. The law required that all births should be registered; it was the duty of the parents of the child and the occupier of the house in which the child had been born to report the birth. It was also the duty of all police officers and village leaders to obtain information concerning every birth within their respective areas.

3. Responding to a question asked at the 2090th meeting concerning stateless children, she said that the authorities conducted public awareness campaigns that provided information on how to become a citizen of Brunei Darussalam. In 2015, a total of 268 children had been registered as stateless.

4. **Ms. Abdul Jalil** (Brunei Darussalam) said that the Ministry of Health had undertaken a number of initiatives to address the shortage of suitably qualified health workers. The measures taken had included improved remuneration packages aimed at encouraging practising professionals to remain within the country and information campaigns for young people on health-care careers. Regarding breastfeeding, the Ministry had launched a strategy on maternal, infant and young child nutrition that, among other things, sought to improve the exclusive breastfeeding rate for the first 6 months by 50 per cent by 2020. The Government was undertaking a study to ascertain whether the 2011 increase in the duration of maternity leave to 105 days had improved breastfeeding rates. The Ministry was currently considering the possibility of establishing a legal mechanism for ensuring compliance with the International Code of Marketing of Breast-milk Substitutes.

5. In response to a directive from the National Council on Social Issues, the Ministry of Health was working in collaboration with multiple relevant agencies, such as the Brunei Darussalam Aids Council, to raise awareness among young people of various sexual and reproductive health issues, including the prevention of HIV transmission.

6. Abortion was illegal under both the Criminal Code and the sharia Criminal Code, unless it was carried out to save the life of a pregnant woman. Abortion was not permitted in cases of rape or incest.

7. **Ms. Abdul Hamid** (Brunei Darussalam) said that the Department of Community Development provided care for girls who became pregnant as a result of rape or incest. Such girls were accommodated in an approved welfare home, where they were able to attend school during the term of their pregnancy. They received psychological counselling, appropriate prenatal and postnatal medical services and financial support.

8. **Ms. Abdul Jalil** (Brunei Darussalam) said that children born as a result of rape or incest were generally given up for adoption within the mother's family circle, if appropriate, or placed in a welfare home.

9. Regarding mental and psychiatric health services for children, she said that clinics had been established in both hospitals and community primary health-care

centres in order to improve the accessibility and acceptability of those services and to reduce the stigma attached to mental health disorders. Community mental health teams and a community rehabilitation centre had also been established. In addition, a psychiatric residential home had been opened to facilitate the rehabilitation of long-term institutionalized patients and their return into the community. Efforts were also being made to upgrade the skills of general practice doctors in primary health-care clinics in order to improve the diagnosis and management of common mental disorders. Specialized adolescent psychiatry services operated within hospitals, while child development centres provided follow-up care outside the hospital setting. In the period from 2005 to 2015, a total of 800 children had been registered with the psychiatric services run by the Ministry of Health.

10. The Narcotics Control Bureau, which was the lead agency in combating drug and substance abuse, pursued a policy that combined supply reduction through law enforcement, and demand reduction through treatment, rehabilitation and preventive drug education. As part of its efforts to raise awareness among students of the harmful effects of drug misuse, the Bureau disseminated anti-drug messages and organized regular talks and exhibitions in schools throughout the country, including in rural areas.

11. **Ms. Muhamad Shariff** asked what was done to reach out to young people who had dropped out of school.

12. **Ms. Abdul Jalil** (Brunei Darussalam) said that school dropouts were able to benefit from community programmes and activities organized by the National Anti-Drug Association, which was a non-governmental organization.

13. No cases of children living with HIV/AIDS had been reported.

14. **Ms. Abdul Hamid** (Brunei Darussalam), responding to an earlier question concerning poverty in Kampong Ayer, said that subsistence and education allowances were available for poor families that were eligible for welfare benefits. In order to ensure regular school attendance, the Community Development Department collaborated with the Department of Schools in investigating cases involving children who had an absence rate of more than 85 per cent and in implementing agreed interventions.

15. **Ms. Sulaiman** (Brunei Darussalam) said that the minimum age of criminal responsibility was 7. However, children between the ages of 7 and 12 could only be held criminally responsible where they had sufficient maturity of understanding to judge the nature and consequences of their actions at the time of the offence. A number of offences were still punishable by whipping. At present, there were no plans to revise provisions relating to such punishment or to the age of criminal responsibility. The Government would report to the Committee on any developments in that regard.

16. **Mr. Gastaud** asked about the number of children aged 7 who were currently imprisoned, the maximum prison term that could be imposed on a child of that age and alternative penalties to imprisonment and whipping.

17. **Ms. Osman** (Brunei Darussalam) said that minors up to the age of 18 who had been arrested in connection with a crime were held in a Department of Community Development remand home pending their appearance before a court. According to the nature of the offence and on the basis of an assessment by a social worker, juvenile courts could order youth offenders to be placed on probation for a minimum period of six months and to carry out community service.

18. **Ms. Sulaiman** (Brunei Darussalam) said that the civil and sharia legal systems operated in parallel. In the event that a case involved overlapping jurisdictions, a

national committee made up of prosecutors representing both systems met on an ad hoc basis to decide whether the civil or the sharia court should hear the case.

19. To date, no list of activities deemed hazardous for children had been drawn up by the Ministry of Labour. The Government would keep the Committee informed of any developments in that area.

20. In 2012, the Criminal Code had been amended to provide for the offence of pornography involving a child. The Code also included a number of provisions relating to child prostitution and the sexual exploitation of children.

21. **Ms. Muhamad Shariff** asked whether any steps had been taken to ensure that magistrates working within the juvenile justice system were properly trained.

22. **Ms. Sulaiman** (Brunei Darussalam) said that both magistrates and prosecutors who dealt with juvenile court cases received specialized training, such as on how to handle child witnesses. They also travelled abroad to study the practice of other countries, including Singapore and New Zealand.

23. **Ms. Abdul Jalil** (Brunei Darussalam) said that, since 2000, the maternal mortality rate had remained under 5 per 100,000 live births, and the latest figure, for 2013, was 1.5. The infant mortality rate had remained under 10 per 1,000 live births since 2000, and the latest figure, for 2014, was 7.3. A report entitled "Brunei Darussalam Millennium Development Goals and Beyond: Revisited 2010" provided additional information on the subject.

24. Children who had been sexually abused were referred to a community paediatrician who specialized in such cases or to an obstetrician or gynaecologist at the recently inaugurated Women and Children's Centre in the country's tertiary hospital. Sexually abused children were cared for by a special team, and if hospitalized, they were placed in a private room in order to protect their identity.

25. As far as HIV/AIDS was concerned, the Government provided all aspects of prevention, care, treatment and support, including comprehensive access to antiretroviral treatment, despite the lack of budget resources allocated specifically to HIV/AIDS. First-line antiretroviral treatment was provided free of charge to citizens and permanent residents, while second- and third-line therapy was offered under certain conditions. Since 1995, the country had recorded only one case, in 2011, of mother-to-child transmission of HIV. Since then, a total of nine other children had been born to five other HIV-positive mothers, and for the past five years, they had remained free of the virus. Orphans whose parents had been HIV-positive were usually cared for by the family or the State, with the most common arrangement being care provided by the family with assistance from the State.

26. **Ms. Aho Assouma** asked what kind of care was afforded orphans infected with HIV; what type of treatment was provided to women with obstetric fistula resulting from female genital mutilation; and whether recovery kits following caesarean section were available to all women, including refugee women.

27. **Ms. Abdul Jalil** (Brunei Darussalam) said that the Ministry of Health had no records of any cases of obstetric fistula caused by female genital mutilation, but if any occurred, they would be handled by the specialized gynaecological services of the Women and Children's Centre. There were currently no AIDS orphans in Brunei Darussalam; however, the Government's policy was to provide them with the same level of care as that given to other orphans. Although free maternal health services were offered to women who resided in Brunei Darussalam, there were no known cases of refugee women giving birth in the territory of the State.

28. **Ms. Aho Assouma** asked what measures had been taken to achieve the absence of HIV-positive children or AIDS orphans in Brunei Darussalam, as the State party's experience might be helpful to other countries that were struggling with HIV/AIDS.

29. **Ms. Abdul Jalil** (Brunei Darussalam) said that the country had recorded its first local case of HIV in 1986, and since then there had been a total of only 110 cases. Because the number of cases was low, the Government had been able to contain the spread of the virus by following each case closely and providing comprehensive treatment. Pregnant women who were infected with HIV were treated by a special team supervised by the Ministry of Health, and there were no cases of mother-to-child transmission. There had been four AIDS-related deaths in 2013 and one in 2014. A confidential registry was kept of such cases as a way of protecting the identity of the patients and avoiding the risk of their stigmatization.

30. Obesity among children in Brunei Darussalam was increasingly a matter of concern. Obesity prevention programmes had been set up beginning in infancy — for example, through the promotion of breastfeeding, bottle-feeding being considered an obesity risk factor. In addition, the national strategy for maternal, infant and young child nutrition had been formulated with a view to improving children's nutrition; it included components for the prevention of both obesity and stunting in children up to the age of 12. Obese or underweight children were referred to community dietitians in primary health-care centres, and those with severe obesity were treated under hospital programmes. A health promotion centre operated by the Ministry of Health offered lifestyle programmes aimed at reducing the incidence of obesity among adolescents and young people. A multisectoral committee had formulated a strategy targeting the prevention of non-communicable diseases, for which obesity was one risk factor. Many schools had health clubs and school health activities, and guidelines had been established for the preparation of healthy food choices in school canteens.

31. **Ms. Aho Assouma** asked what the obesity rate was in the State party and what share of the general budget was allocated to health.

32. **Ms. Abdul Jalil** (Brunei Darussalam) said that she did not have those figures readily available but would transmit them to the Committee in due course.

33. **Mr. Lim** (Brunei Darussalam) said that the National Education System for the 21st Century had been formulated with the aim of transforming general classroom dynamics, and teachers' standards had been introduced with a view to improving the overall quality of teaching. Meeting the needs of a growing student population, including building new schools, was a permanent feature of the mandate of the Ministry of Education.

34. **Mr. Gastaud** said that school hours appeared to be excessively long for some children, and as a result, they had relatively little time for leisure activities.

35. **Mr. Lim** (Brunei Darussalam) said that the length of the schoolday in Brunei Darussalam was actually shorter than in some neighbouring countries, and schoolchildren had sufficient time for leisure activities. Although they occasionally were offered extra classes, those were not mandatory, and once a week they could choose a co-curricular activity.

36. Some children with disabilities attended regular schools. However, those with more severe disabilities were encouraged to enrol in one of the nine Model Inclusive Schools for children with special needs, of which there were five at the primary level and four at the secondary level.

37. All schools in Brunei Darussalam taught Malay and English, but there was some variety in the other languages that schools offered, depending on the type of school.

For example, religious and Arabic schools offered Arabic; Chinese schools offered Chinese; and international schools offered other languages.

38. **Mr. Gastaud** asked whether the study of Islamic religion was compulsory for all students, including non-Muslims, in all State and private schools.

39. **Mr. Lim** (Brunei Darussalam) said that Islamic religion was one of the core subjects of the national curriculum, which was compulsory for students in both public and private schools; in international schools, however, it was offered only to Muslim students.

40. **Mr. Gastaud** said that the compulsory study of Islam infringed students' freedom of expression and religious freedom — non-Muslim students were forced to study a religion that they did not practice. He asked whether the State party would consider taking steps to exempt students from such studies, as was the practice in most other countries where there was a dominant religion.

41. **Mr. Lim** (Brunei Darussalam) said that the delegation would take Mr. Gastaud's suggestion under advisement and would contact the Committee when it had more information on the matter.

42. **Ms. Abdul Jalil** (Brunei Darussalam) pointed out that the compulsory study of Islamic religion and history, which was taught in schools under the authority of the Ministry of Education, was aimed at enhancing student's general knowledge. Islamic religious schools, on the other hand, were under the authority of the Ministry of Religious Affairs and provided in-depth instruction to Muslim students in the Koran, Islamic history and the Arabic language.

43. **The Chair** asked whether enrolment in international schools was open only to the children of diplomats.

44. **Mr. Lim** (Brunei Darussalam) said that it was not: it was open to the general public. Referring to a question on steps taken in schools to change gender stereotypes, he said that the public school curriculum emphasized the roles of both men and women in raising children, and the Government conducted annual programmes along the same lines. Children gained their understanding of gender roles from observing the behaviour of the adult members of their household.

45. **Ms. Alawi** (Brunei Darussalam) said that prospective spouses were required to complete a premarital course on the duties of husbands and wives toward each other and their children. Courses were also available to married couples, as well as to those whose marriages had been dissolved, on health and financial management.

46. **Ms. Abdul Hamid** (Brunei Darussalam) said that the mandate of the Department of Community Development included strengthening the institution of the family. A special committee on the family and women's issues had been established as part of the National Council on Social Issues, and several programmes had been set up to ensure that the shared responsibility of spouses was taken into consideration. Workshops on parenting skills were also organized, and National Family Day was celebrated each year.

47. **Ms. Sandberg** asked whether fathers were entitled to parental leave.

48. **Ms. Abdul Hamid** (Brunei Darussalam) said that there was no paternity leave benefit, as such, but that fathers were permitted to take annual leave on the birth of a child. The Government had increased the length of maternity leave for working mothers from 58 to 108 days. Workshops on parenting skills, which were taught to working mothers and fathers, were designed to instil awareness about sharing responsibilities and balancing work and family commitments.

49. **Ms. Aho Assouma** requested more details concerning what was taught in marriage preparation classes about the payment of maintenance fees and the practice of dowry. She wondered why the delegation was composed primarily of women, as it gave the impression that men considered children to be less their responsibility and more that of women.

50. **The Chair** asked whether school subjects in which children were taught the importance of the shared responsibility of parents did so in a way that nonetheless implied a division of labour in which women had the primary responsibility for the care of children.

51. **Mr. Lim** (Brunei Darussalam) said that he did not have information on hand to answer that question but would transmit it to the Committee subsequently.

52. **Ms. Sandberg** asked whether children in Brunei Darussalam were encouraged to follow courses that were traditionally associated with the opposite sex.

53. **Ms. Abdul Jalil** (Brunei Darussalam) said that the Government neither encouraged nor discouraged children from following any courses on the basis of gender; children were free to choose their own paths in relation to their abilities or intellectual capacity. In actuality, there were more girls in secondary and tertiary education than boys, and the proportion of girls in technical or vocational education was almost 50 per cent. Aside from the fact that, in general, there were more women than men in the civil service, the members of the Brunei Darussalam delegation had been chosen on the basis of their positions and expertise, not their gender.

54. **Ms. Alawi** (Brunei Darussalam) said that, under sharia law, Muslims were required to take a premarital course, failing which their marriage certificate was withheld. Among the subjects dealt with in the course were *nafkah*, or maintenance of the wife and children; the effect of the non-payment of maintenance; and recovery of arrears of maintenance.

55. **Mr. Lim** (Brunei Darussalam) said that both male and female children had equal opportunities for school enrolment and educational assistance at every level. In the Global Gender Gap Report 2014, published by the World Economic Forum, Brunei Darussalam was ranked first in enrolment in secondary and tertiary education. Female students were well represented in technical and vocational education, with an enrolment rate in 2013 of 47 per cent. Girls were not discouraged from embarking on vocational and technical education; on the contrary, there was remarkable gender parity in Brunei Darussalam in that regard.

56. **Ms. Sandberg** commended the State party for its first-place ranking. She wished to know whether, when women finished their education and had a family, they continued to work in full-time employment.

57. **Ms. Abdul Jalil** (Brunei Darussalam) said that all the women in the delegation were married and had a full-time job. There was a very strong family support system in Brunei Darussalam, including assistance from grandparents, which enabled women to combine a full career with raising children, and relatively affordable child-care and domestic assistance was available to working women.

58. **Ms. Abdul Hamid** (Brunei Darussalam), referring to statistics on abandoned children, said that, in 2013, two abandoned babies had been found alive and two had been found dead; in 2014, two had been found dead. Abandoned infants who were found alive were put up for adoption in accordance with the adoption system administered by the Department of Community Development.

59. **Ms. Sandberg** asked for what reasons children might be removed from their families and what support was available to families in order to prevent separation from their children.

60. **Ms. Osman** (Brunei Darussalam) said that children might be separated from their families when both parents were in prison and there were no relatives capable of taking them in, or in order to protect them from harmful situations in the home. When children were removed from their families, a social worker was assigned to the case to ensure that the children were cared for, to trace any relatives and to find alternative care where necessary. The ability of mothers to care for their children was assessed before their release from prison, and the Department of Community Development provided them with counselling and employment assistance. She stressed that the placement of children in institutions was a last resort.

61. **Ms. Sandberg** suggested that there might be fewer social workers in Brunei Darussalam than should be desirable.

62. **Ms. Osman** (Brunei Darussalam) replied that the Department would prefer to have more. Social workers conducted unannounced visits of foster homes until the children were settled, or throughout their placement if deemed necessary.

63. **The Chair**, supported by **Ms. Sandberg**, invited the delegation to comment on reports that children were used as domestic workers or for extra income by their foster or adoptive families and on plans to ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

64. **Ms. Abdul Hamid** (Brunei Darussalam) said that family businesses were common in Brunei Darussalam; exploitation would have to be proven through an enquiry before the authorities could remove a child from a foster home.

65. **Ms. Abdul Jalil** (Brunei Darussalam) said that the eligibility criteria for adoptive parents were being revised to enhance background checks with a view to reducing the risk that children might be placed with unsuitable families.

The meeting was suspended at 4.40 p.m. and resumed at 4.50 p.m.

66. **Ms. Sulaiman** (Brunei Darussalam) said that the country had yet to ratify the Hague Convention because its domestic legislation was not fully consistent with it. Child witnesses were assigned a social worker and the Code of Criminal Procedure included special protection measures, such as a ban on the publication of their name, school and any other means of identifying them. The law did provide for the possibility of imposing the death penalty on a minor; however, she stressed that the burden of proof was very high in such cases and that due process was guaranteed in civil and sharia courts alike.

67. **Ms. Sandberg** asked for clarification as to whether the State party was aligning its laws with a view to ratifying the Hague Convention and said she wished to know how many children were living in institutions and foster homes and whether it was true that the foster care scheme was temporary.

68. **Mr. Gastaud** asked whether any children had been sentenced to death or to hand amputation and, if so, how many and for what offences.

69. **Ms. Sulaiman** (Brunei Darussalam) said that no children had been sentenced to either of those punishments. The adoption of Muslim children was governed by the Islamic Adoption of Children Act, under which the courts were required to consider the best interest of the child and to seek the views of the parents or guardians and, where possible, the child. The Act stipulated that non-Muslims could not adopt a Muslim child and that children were to keep the name of their biological parents if they were known.

70. **Mr. Madi** said it would therefore appear that the adoption of Muslim and non-Muslim children was subject to different rules. He asked how a child's religion was established in cases of abandonment when the parents were unknown.

71. **Ms. Sulaiman** (Brunei Darussalam) replied that, in such situations, the law provided that the child would automatically be assumed to be Muslim.

72. **Ms. Abdul Hamid** (Brunei Darussalam) said that the foster care system was only temporary insofar as children lived with their foster families up to the age of 18, at which time they were free to choose whether or not to stay.

73. **Ms. Sandberg** asked whether children were prepared for life after foster care and whether foster families received any benefits. She also asked what proportion of children separated from their families were placed in institutions as compared to foster care.

74. **Mr. Gastaud**, noting that there was a statutory minimum working age, asked whether there were labour inspectors to enforce the law and whether any employers had ever been prosecuted and convicted for employing a child under that age.

75. **Ms. Aho Assouma**, repeating an earlier question about arrears in maintenance payments, asked what happened when a male relative who was responsible for the woman did not have the means to pay.

76. **Ms. Alawi** (Brunei Darussalam) replied that the Islamic Family Law Order stipulated that maintenance could be recovered in the same way as debt. In cases where the male relative had no resources, bankruptcy proceedings were initiated and any assets in his name could be seized and used to pay maintenance arrears.

77. **Ms. Sulaiman** (Brunei Darussalam) said that there were restrictions on the imprisonment of children and that alternative sentencing was used in the case of juvenile offenders.

78. **Ms. Abdul Hamid** (Brunei Darussalam) said that institutionalized children were assessed before they left the institution to ensure that they were prepared for independent life in society. The Department of Community Development helped them to find training or employment, and temporary financial assistance could be provided.

79. **Ms. Abdul Jalil** (Brunei Darussalam) said that there were labour inspectors but that no employers had yet been convicted of using child labour.

80. **The Chair** asked what name was given to children raised by foster families and whether they might be stigmatized for not being a couple's biological children.

81. **Ms. Abdul Hamid** (Brunei Darussalam) said that only abandoned children could be given their foster parents' name if the latter adopted them; other children kept their birth name or were given a name by the Department of Community Development.

82. **Ms. Sulaiman** (Brunei Darussalam) said that the adoption of Muslim children and non-Muslim children was governed by different laws. In the case of non-Muslim children, the adoption had to be authorized by the courts and all parental obligations were transferred to the adoptive parents.

83. **Mr. Madi** asked whether those obligations included the transmission of the adoptive parent's name and the inclusion of the adopted children in any inheritance.

84. **Ms. Sulaiman** (Brunei Darussalam) replied that adopted children could change their name to that of their adoptive parents and had equal inheritance rights.

85. **Mr. Nogueira Neto** (Country Rapporteur) thanked the delegation for its answers and said that the Committee looked forward to the State party's written replies to the questions that remained unanswered and especially to the provision of statistics.

Reminding the State party that it had the obligation to align its legislation with the Convention, he said he hoped that it would strive to uphold all the universal legal principles.

86. **Ms. Abdul Jalil** (Brunei Darussalam), thanking the Committee for its insightful observations and constructive comments, said that engaging directly with the Committee had been extremely beneficial. Brunei Darussalam remained committed to fulfilling its obligations under the Convention, in accordance with the Constitution and sharia law and bearing in mind its specific challenges, particularly a lack of human resources. The delegation would transmit the Committee's comments and recommendations to the relevant Government agencies and other stakeholders.

87. **The Chair** said she hoped that the State party would take into consideration the Committee's recommendations, in particular with regard to aligning domestic legislation with the Convention and lifting the remaining reservations.

The meeting rose at 5.30 p.m.

United Nations CRC/C/SR.2087

Convention on the Rights of the Child

Distr.: General
28 January 2016

Original: English

Committee on the Rights of the Child
Seventy-first session

Summary record of the 2087th (Chamber B) meeting
Held at the Palais des Nations, Geneva, on Thursday, 21 January 2016, at 3 p.m.

Chair: Mr. Mezmur

Contents

Consideration of reports of States parties (*continued*)

Combined third to fifth periodic reports of Kenya (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-00955 (E) 270116 280116

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Combined third to fifth periodic reports of Kenya (continued) (CRC/C/KEN/3-5; CRC/C/KEN/Q/3-5 and Add.1)

1. *At the invitation of the Chair, the delegation of Kenya took places at the Committee table.*

2. **Ms. Karanu** (Kenya) said that a free 24-hour child helpline was in place. Child protection centres had been set up in selected areas of the country to provide vulnerable children with access to health care, food and education, as had child rescue centres to care for child victims of abuse, violence or neglect needing shelter and support, and further such facilities were under construction. Child protection units had also been set up in all police stations to ensure that the rights of children in conflict with the law were respected. Police officers dealing with children were specially trained and wore plain clothes. Gender violence recovery centres, run by NGOs and civil society organizations, operated alongside the State-run services.

3. **Mr. Muigai** (Kenya) said that, under the Constitution, men and women had equal rights and obligations and that gender discrimination was prohibited throughout the country's legislation. However, the composition, functioning and values of family units was a separate matter, beyond the reach of the Government.

4. **Mr. Masese** (Kenya) said that the State party had signed reciprocal agreements on the enforcement of international recovery of child support and family maintenance orders.

5. **Mr. Muigai** (Kenya) said that the recent overhaul of the judicial system would improve the enforcement of maintenance payment and welfare for vulnerable groups. A specialized family division of the High Court had been established to deal with issues such as divorce, adoption and maintenance. Its functions would be progressively devolved to regional councils. Persons who had formed common law marriages were now subject to provisions on the payment of maintenance in accordance with the Marriage Act of 2014, which covered various types of civil, religious and customary marriages, including polygamous unions which had in fact been legal in the State party since 1897. While public opinion had supported the amendment of the legal age for marriage to 18 years for boys and girls, it was not in favour of banning polygamy and the Government did not therefore envisage legislative changes in that regard in the near future. Monogamous marriages could only be converted into polygamous unions with the first wife's consent and, given the expense of providing for more than one wife, few persons entered polygamy in practice.

6. **Ms. Oguye** (Kenya) said that most children deprived of a family environment were placed in charitable children's institutions or statutory rehabilitation institutions on the basis of necessity and appropriateness. Currently, around 43,000 children resided in the 700 charitable children's institutions in the country. They were placed there on a court decision for a maximum period of three years, following which they were transferred to a family setting or adopted. In addition, many children were accommodated in unregistered facilities. Charitable children's institutions were registered and regulated by law, staff manuals were issued and reporting mechanisms were in place. The institutions were subject to monitoring by the National Council for Children's Services and to licence renewal every three years. They could be closed down if requirements were not met.

7. **Ms. Ayoubi Idrissi** asked whether all polygamous marriages were registered and what safeguards were in place for the first wife and her children.

8. **Mr. Cardona Llorens** said that a national law permitting polygamy could only be deemed non-discriminatory towards women if polyandry were also provided for. Children living in a polygamous environment necessarily developed particular views on gender relations and decisions concerning polygamy had therefore to take their non-material welfare into account.

9. **Mr. Muigai** (Kenya) said that polygamy was part of African tradition and the Government should not challenge it or interfere with family units, particularly where such structures did not impinge on child protection. The children of polygamous families were protected under the Islamic principles by which their parents led their lives. All forms of marriage could be registered in the State party but not all were in practice. While there were no plans to formulate new legislation relating to gender equality, much was being done to empower women and enable them to assert their rights.

10. **Ms. Khazova** asked why, in cases where it was clear that children would not return to their families, they were required to remain in the institution for three years. Could those children be placed with foster families or was there a shortage of such care? She would like further details on the monitoring and relicensing of charitable children's institutions, including the inspecting authority and the arrangements for children in institutions that were being monitored or closed down.

11. **Mr. Kotrane** (Country Rapporteur) asked whether investigations had been conducted into allegations of child sexual abuse, violence and bombing of civilians perpetrated by Kenyan peacekeepers in Somalia.

12. **Ms. Ayoubi Idrissi** asked how, in cases where the husband left an unregistered marriage, such a marriage could be proved and the paternity of any children recognized, particularly where the man denied it.

13. **Mr. Muigai** (Kenya) said that efforts were made to ensure that all marriages were registered and maintenance was collected in all relevant cases. Certain incidents of sexual exploitation of children by United Nations peacekeepers had been brought to the Government's attention and those cases were under investigation.

14. **Ms. Karanu** (Kenya) said that the State party had established a moratorium on international adoptions following reports of child trafficking for purposes of adoption. In 2015, the national adoption committee had been reconstituted and an expert committee was carrying out a review of the whole adoption process. The national committee would soon be considering the annual renewal of licences for domestic adoption for the five adoption organizations in the country and the Cabinet was expected to issue a decision on intercountry adoption by the end of January 2016.

15. **Mr. Muigai** (Kenya) said that Kenya was fully aware of its obligation under the Convention to ensure that children who could not be with their own families were placed as soon as possible in a safe environment, such as could be provided by adoption. However, the moratorium on international adoptions had been introduced until the system could be rendered more efficient, to ensure that international adoption was not facilitating trafficking.

16. **Ms. Oguye** (Kenya) said that child labour was one of the Government's main concerns, particularly given the existence of its worst forms in the country: in the mining sector, which had many children working in quarries, and in salt harvesting along the coast. Others did not attend school because their families preferred that they learn to look after animals or work in agriculture or domestic service, and some were involved in the sex trade. The Government had introduced a child labour policy which

was awaiting approval at Cabinet level. The Employment Act had already been amended to address child labour and allow inspections to be carried out to determine whether children were being employed in a particular location. The 2007 data on child labour indicated that 1.1 million children were in employment in the country.

17. **Ms. Onuko** (Kenya) said that Kenya had ratified the International Labour Organization Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182). The 2004 reform of the Employment Act had given a firm legal basis for the protection of children and prohibition of the worst forms of child labour. The Government's multisectoral and interministerial approach included help desks, work to map the extent of the problem, child labour committees and collaboration with civil society. If the child labour policy was accepted by the Cabinet, it would offer even greater protection, more programmes and increased funding. Inspections had been carried out to determine if children were being employed but it was difficult to conduct them in all regions of the country. With the introduction of free primary education, the number of children affected by child labour had dropped from 1.9 million prior to 2007 to 1.1 million currently.

18. **The Chair** said that, under the Employment Act 2007, it was illegal to employ a child below the age of 13 years. As the minimum age of employment was 16 and the Education Act only required that children attend school until the age of 14, it would seem that children aged between 14 and 16 years were not covered by the legislation in force. Would the State party consider introducing legislation to address that concern?

19. **Ms. Oguye** (Kenya) said that the issue of the alignment of legislation to cover that age group had been under discussion for some time. Amendments were being made to the Employment Act. Under both the Act and the Convention, regulations restricted the number of hours children under the age of 18 years could work and set out the terms and conditions of their employment. When it came to the worst forms of child labour, no child under the age of 18 was permitted to work in those fields.

20. **Mr. Muigai** (Kenya) said that the age of criminal responsibility should be examined, as proposed by the Committee, and efforts would be made to raise it from 8 to 12 years. The delegation appreciated the Committee's view that minors should be imprisoned only as a last resort and only if the circumstances were not detrimental to their well-being. The Persons Deprived of Liberty Act had been introduced in 2015 to regulate the conditions in which people, especially children, were held in custody. A task force had been set up to define the conditions in which children who were in prison or in custody with their mothers could be held, to ensure that standards did not fall below a minimum accepted level.

21. **Mr. Amoth** (Kenya) said that the 2013 devolution of health services had left the Government the task of formulating policy in that area and managing service delivery. Data from the Kenya Demographic and Health Survey indicated that the infant and maternal mortality rates had both decreased following devolution, which the Government viewed as an opportunity for the counties to prioritize their key concerns and allocate funds accordingly. To that end, infant and maternal mortality rates had been mapped and the Public Finance Management Act 2012 introduced.

22. Adolescents comprised 24 per cent of the population, representing around 10 million persons. The adolescent pregnancy rate had not changed since 2009 and remained around 8 per cent. Child marriage and sexual abuse of children remained common, mainly due to poverty, a lack of education and limited economic opportunities. There was also a lack of access to education on sexual health and contraceptives. The maternal mortality rate for adolescents was relatively high as a result of their physical immaturity for pregnancy and childbirth and inadequate access

to appropriate health care. The Ministry of Health had recently begun to collect disaggregated data on teenage pregnancies. In an attempt to address the problem, a presidential decree had been issued on the provision of free maternity services and the abolition of all associated fees, thus removing the financial barrier to obtaining appropriate health care. An adolescent sexual health policy had also been launched, involving multiple stakeholders, to provide more resources to address issues specific to that age group. In collaboration with the Ministry of Education, comprehensive sexual health classes were taught in schools and there was a policy in place to reintegrate adolescent girls who had given birth back into the education system.

23. Under article 26 of the Constitution, abortion was permitted only when the life of the mother was at risk. In that connection, a multisectoral task force had been set up in 2015 to identify the five main causes of maternal mortality. Drug abuse was a problem among adolescents, in particular because it increased the likelihood of them engaging in risky sexual behaviour. The Ministry of Health was therefore focusing on training health-care professionals on issues related to drug abuse, in order to equip them with specialist knowledge in that field. On the subject of HIV and AIDS, the curriculum for adolescents featured education on non-discrimination against people affected, and sexual education was part of the curriculum for all children. The number of HIV/AIDS-related deaths had fallen across all age groups in Kenya and care was available to all.

24. He said that the childhood immunization programme had generally been successful, with a coverage rate of 79 per cent, which was expected to increase. It was planned to introduce the measles, mumps and rubella vaccine in 2016. Sanitation was a very challenging issue: around 60 per cent of the population of Nairobi lived in slums, lacking basic water and sanitation infrastructure. A total of 30 billion Kenya Shillings had been allocated to improve the water and sanitation services.

25. **The Chair** said that he would like to know whether confidential HIV testing was available only to persons over the age of 18 years. Given the fact that adolescents were a sexually active age group, did the Government view such testing as important in reducing the incidence of HIV/AIDS? There had been outbreaks of cholera in nine counties in 2015. What efforts had been made to raise awareness on cholera and how successful had those efforts been?

26. **Ms. Oviedo Fierro** said that she would like to hear more about the special steps taken to combat maternal mortality. What was being done to eradicate ill-treatment of pregnant adolescents in health-care settings and to end discrimination against persons suffering from HIV and AIDS?

27. **Ms. Ayoubi Idrissi** said that she would like further information on the national vaccination campaign against neonatal tetanus, including its impact on neonatal and maternal mortality rates.

28. **Mr. Amoth** (Kenya) said that the Government had held consultations with the relevant stakeholders to discuss whether to provide confidential HIV testing and counselling facilities for young persons under the age of 18. However, it was still a contentious issue and more work remained to be done. Regarding cholera, the detection and treatment of the disease had slowly improved over recent years. However, poor water and sanitation facilities, particularly in urban informal settlements, had hindered progress and the incidence of cholera had increased in certain areas across the country. To address maternal mortality, the Government had provided free maternity health services for pregnant women, including in mobile maternity facilities in remote and rural areas, which had greatly improved overall access to appropriate maternity care. As to the ill-treatment of pregnant girls in medical establishments, the Government had recently developed a charter setting forth

patients' rights and had taken steps to better train health-care providers in order to curb such behaviour. More work was required to eliminate maternal and neonatal tetanus in all areas of the country. Although tetanus vaccinations had been provided to women and girls of childbearing age, the Catholic Church had opposed the vaccination campaign as it believed that the vaccine had been laced with contraceptives. National quality control tests had been conducted on random samples of the vaccine in order to appease such concerns and ensure the success of future vaccination campaigns.

29. **Mr. Masese** (Kenya) said that the National Commission on Human Rights had been tasked with promoting and protecting children's rights. While a dedicated commissioner for children's rights had yet to be appointed, additional resources had been provided to facilitate the Commission's work and a separate unit for children's issues had been established.

30. **Ms. Khazova** said that she would like further information on the obstacles that had prevented the appointment of a commissioner for children's rights.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

31. **Mr. Kotrane** asked what efforts had been made to implement the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, particularly in the case of displaced persons living in the Rift Valley, and whether the State party intended to adopt the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention). He also wished to know what measures had been taken to address the expropriation of land belonging to minority and indigenous groups, which had led to serious violations of children's rights. In that connection, he asked whether the State party had plans to adopt the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

32. **Ms. Khazova** asked what action had been taken to address the high number of indigenous girls who failed to attend school. She also wished to know what efforts had been made to reintegrate into society and guarantee access to education for girls who had left their homes to escape early marriage or female genital mutilation and were living in rescue centres.

33. **Mr. Muigai** (Kenya) said that all school-age children, including refugee children, had access to basic education and attended human rights and citizenship lessons. Pupils also had access to a number of sporting, recreational and cultural facilities and activities. There was no discrimination in the national school application process and children wishing to enrol were not required to show their birth certificate. Proof of age was only required upon taking school leaving exams.

34. The Government remained fully committed to its international refugee obligations and had implemented special policies for refugee children to promote their integration into Kenyan society. However, the country faced an increasingly large flow of refugees and had been experiencing difficulties with refugee management as well as security issues, including the radicalization of children and young persons by terrorist groups. Every effort was being made to stabilize the situation quickly and find a lasting solution.

35. There had been a series of resettlement programmes targeting different groups of internally displaced persons over recent years. Unfortunately, while numerous measures had been taken to encourage permanent resettlement, many persons had left their new homes and moved back to informal settlements. Indigenous peoples were only resettled when they were found to have moved into areas of national ecological interest, such as forests and woodland containing important national supplies of water or resources. In those cases, a variety of measures were taken to ensure that children's

rights remained unaffected and that indigenous children, including girls, had access to education.

36. The National Commission on Human Rights was an independent body and could appoint its members freely. The Government was in favour of there being a dedicated commissioner for children's rights. It would be extremely difficult to reintegrate girls living in rescue centres into their home communities or families while cultural attitudes remained unchanged. Numerous measures had therefore been taken with the support of NGOs and civil society to address harmful cultural norms and eradicate the practices of female genital mutilation and early marriage. More progress, however, remained to be made in that regard.

37. **The Chair** wished to know what efforts the Government was making to reduce regional disparities in school enrolment, attendance and completion.

38. **Ms. Khazova** asked what steps were being taken to monitor and improve the quality of the education provided by Bridge International Academies in Kenya.

39. **Mr. Muigai** (Kenya) said that the Government firmly intended to ensure that regional disparities in school enrolment were eliminated over time through coordinated action by the national Government and local authorities. Access to and the quality of education in informal settlements in urban areas was a genuine concern which was being addressed by the Government and its development partners. The Government would work with the Committee to fashion appropriate responses to the various difficulties. His delegation would look into the quality of private education and would submit a written response.

40. **Mr. Cardona Llorens** asked what was being done to cater to the needs of children with disabilities who had been abandoned by their families and who were not cared for in charitable child institutions (CCIs). What education was available for children who were albinos or for children with mental disability? He further wished to know what specific assistance was given to the over 99,000 children with disabilities who were not in school and what inclusive education for children with disabilities was available in ordinary schools.

41. **The Chair** requested information on progress in monitoring the compliance of the large number of unregistered CCIs with minimum standards, best practices and the national guidelines on alternatives to family care.

42. **Ms. Oguye** (Kenya) said that it was not government policy to institutionalize child care and indeed CCIs would not be a suitable environment for many children. Although little headway had been made in the registration of those institutions, their closure was not a viable option, because their young residents would then have no safe place to live. Alternatives to family care took the form of adoption, placement with relatives, foster care and *kafalah*. Over the previous year, the Government had conducted awareness-raising campaigns in 11 counties in order to sensitize Kenyans to the need to offer such alternative care. It also encouraged supported independent living for child-headed families; that meant that children without parents received regular visits from adults from the community to which they belonged in order to check that they were coping.

43. **Ms. Karanu** (Kenya) said the National Council for Persons with Disabilities, which had been established in 2003, assisted children with disabilities. Every government department had to mainstream persons with disabilities in its action and activities. The delegation would welcome the Committee's views and recommendations on how to tackle the huge challenge of caring for children with serious disabilities, especially in view of the cost of providing round-the-clock services for them. In fact, their numbers could be greater than those reflected in the

Government's statistics, because many of those children were hidden by their parents, since their disability was regarded as a shameful curse. In order to change such prevailing attitudes, the Government was conducting an awareness-raising campaign to promote the idea that disability was not synonymous with inability and that, if a child with disability was given a chance, he or she could do well in life.

44. **Ms. Oviedo Fierro** wished to know how many AIDS orphans there were in Kenya and whether there were any long-term programmes to fund their studies or enhance their quality of life.

45. **Mr. Muigai** (Kenya) undertook to provide a written reply to that question.

46. **Ms. Khazova** thanked the delegation for the very open and constructive dialogue and looked forward to receiving written replies to the unanswered questions. She noted that there had been a significant improvement in the protection of children's rights in general. On the other hand, the discussion had shown that old sociocultural stereotyping was still the root cause of many problems.

47. **Mr. Muigai** (Kenya) said that his delegation had been impressed by the depth of the Committee's understanding of the challenges faced by his country in safeguarding children's well-being. His Government took its obligations under the Convention very seriously. He therefore looked forward, in the State party's next periodic report, to describing the exemplary steps which Kenya had taken to secure a dignified life for children.

48. **The Chair** urged the State party to sign and ratify the Optional Protocol on the Rights of the Child on a communications procedure.

The meeting rose at 5.50 p.m.

United Nations CRC/C/SR.2088

Convention on the Rights of the Child

Distr.: General
26 January 2016

Original: English

Committee on the Rights of the Child
Seventy-first session

Summary record of the 2088th (Chamber A) meeting
Held at the Palais des Nations, Geneva, on Friday, 22 January 2016, at 10 a.m.

Chair: Ms. Muhamad Shariff (Vice-Chair)

Contents

Consideration of reports of States parties (*continued*)

Combined second to fourth periodic reports of Zambia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-00963 (E) 250116 260116

Please recycle

The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties *(continued)*

Combined second to fourth periodic reports of Zambia (CRC/C/ZMB/2-4; CRC/C/ZMB/Q/2-4)

1. *At the invitation of the Chair, the delegation of Zambia took places at the Committee table.*

2. **Mr. Kalaluka** (Zambia), introducing the combined second to fourth periodic reports of Zambia, said that, for the first time, the views of children from various parts of the country had been included in the State party report. The country was currently undergoing a process of constitutional reform, which would culminate in a referendum to amend the Bill of Rights in August 2016. The proposed amendments would include provisions on the protection and promotion of the rights of the child, chief among them a definition of the child in line with the Convention on the Rights of the Child. Over the past five years, the Government had enacted a number of pieces of legislation to enhance the rights of children, such as the 2011 Education Act, which provided for the right to free basic education, made school attendance compulsory for children of school age, prohibited educational institutions from discriminating against children on any grounds and made it an offence to marry off school-going children. The 2011 Anti-Gender-Based Violence Act provided for the establishment of shelters for victims, including specific facilities for children; the first children's shelter had been completed in Mansa and two more were under construction. Under that Act, child marriage was classified as a form of physical, mental, social and economic abuse. The 2012 Persons with Disabilities Act incorporated the Convention on the Rights of Persons with Disabilities and its Optional Protocol into domestic law and criminalized the failure by parents of children with disabilities to send them to school.

3. The Government was currently reviewing the Children's Code Bill, which would consolidate the various laws providing for the rights and welfare of children, harmonize the definition of the child in all legislation, and incorporate the Convention and other regional and international treaties on children's rights into domestic law. In 2015, the Government had launched the National Child Policy to provide the institutional framework for the implementation of all programmes for children. In 2014, it had introduced the minimum standards of care for childcare facilities to ensure that children who were not in a family environment were protected and cared for in accordance with international standards. The Government recognized that institutional care was a measure of last resort and was endeavouring to enhance alternative care programmes, such as foster care, adoption and kinship care. Guidelines on foster care, adoption and reintegration were being finalized.

4. Significant progress had been made in relation to overall indicators of the health status of children. For example, between 2007 and 2014, the under-5 mortality rate had fallen from 119 per 1,000 live births to 75 per 1,000 live births, the infant mortality rate had declined from 70 per 1,000 live births to 45 and the neonatal mortality rate had decreased from 37 per 1,000 live births to 24. The Government had continued to invest in the health sector: specialized modern equipment had been installed in six general hospitals across the country and the construction of 38 new district hospitals was under way. Significant strides had also been made in the education sector: more than 1,500 early childhood education centres had been operationalized in rural and remote areas nationwide, with an initial enrolment of 70,000 children. In 2016, the Government would be implementing a policy to reduce primary and secondary school fees.

5. The Government remained committed to protecting the marginalized in society, especially children. The number of households benefiting from the Social Cash Transfer

Scheme had increased from 145,000 in 2014 to 191,000 in 2015, and the scheme was being scaled up from 50 districts in 2015 to 77 districts in 2016. Many of the beneficiaries of the scheme were children. Despite those and other achievements, however, the Government continued to face many challenges, particularly in respect of financial resources, which had resulted in delays to children's programmes. Nonetheless, children remained a top priority for the Government.

6. Due to time constraints and a miscommunication, the Government had not been able to obtain full responses to the Committee's list of issues, but would address the issues with the information currently available and provide the Committee with further information at a later date.

7. **Mr. Madi** (Country Rapporteur) said that he welcomed the inclusion of children's views in the State party report. However, it was regrettable that the Committee had only just received a copy of the written replies to its list of issues, which should have been available as a document in October 2015. The constitutional reform process was a positive development, and he would be interested to know more about the proposed amendments related to children's rights. The Committee was concerned that the process of reviewing legislation related to children to bring it into line with the Convention, while welcome, was taking an unduly long time. He wished to know whether any progress had been made in establishing or designating a body to coordinate implementation of the Convention and why the provision on the establishment of the National Child Council had been removed from the draft Children's Code. He would also like to know why the State party had not ratified any of the optional protocols to the Convention.

8. While social spending had increased, the education budget remained insufficient to ensure that schools were properly equipped and staffed, and expenditure on health was also inadequate. He invited the delegation to comment on the fact that, although the Office of the Commissioner for Children had been established in 2009 and mandated to receive and investigate complaints of violations of children's rights, the Commissioner had not yet been appointed and the Office was inadequately funded and staffed. It seemed that the Government was doing little to disseminate the Convention, which had not been translated into local languages, among the general public, and children in particular. He asked whether NGOs had participated in the preparation of the report.

9. He would be interested to know more about the section of the Sixth National Development Plan on children. He would also like to know if the Government had developed a regulatory framework for the mining industry, whose activities had a negative impact on children's rights and the environment. Did it conduct inspections of mining operations, such as the lead mines in Kabwe? Although the legal age for marriage was 21, many girls entered into marriage before the age of 18, which was a serious concern that needed to be addressed. He noted that the number of complaints of defilement of children lodged with the police was on the rise. Given that the majority of complaints did not lead to prosecution, he wondered what the barriers were to enforcement of the law on defilement.

10. He asked the delegation to comment on the vulnerability of Zambian children to different forms of violence in various settings and what efforts were being made to build capacity in law enforcement, the judiciary and the education system and to train community and religious leaders to deal with such problems. Had studies been conducted on domestic violence, including child sexual abuse, as previously recommended by the Committee? What measures were in place to ensure the protection and rehabilitation of child victims of violence? The Committee was concerned that corporal punishment continued to be practised in Zambia and especially that, in the absence of an explicit prohibition of corporal punishment in all settings, there was abuse of the exception in the Juveniles Act that permitted parents, teachers and other persons having the lawful

control or charge of a child to administer lawful punishment to them. Would corporal punishment be expressly prohibited under the amended Bill of Rights?

11. **Mr. Rodríguez Reyes** (Country Rapporteur) said that he would welcome an update on the outcome of the Sixth National Development Plan, and asked whether a new plan was now in force. He would like to know whether children belonging to vulnerable groups, such as children with disabilities or HIV, migrants, refugees and orphans, had the same opportunities as other children to access education, health care, social services and the justice system. Had the State party made any effort to collect disaggregated data on children so as to identify possible patterns of discrimination that could guide public policy? Did protection against discrimination cover children of all ages in all circumstances? Was information on non-discrimination included in school curricula? Were there any obstacles to Muslim children having identity cards issued under the traditional Muslim name given to them by their parents? In daily life, did girls have less time for play and leisure than boys because of the unequal distribution of domestic tasks? If so, what was being done to address that problem?

12. He requested an update on the status of the draft Children's Code and plans for its dissemination and for raising awareness of the principle of the best interests of the child. Was that principle also reflected in other legislation and was it applied by judges and civil servants, including in rural areas? Had the authorities sensed any hostility, in particular from religious or community leaders, to that principle? Were the best interests of the child taken into account when budgets were drawn up?

13. He asked whether children could ask to be heard on the subject of any arrangements affecting them, especially those related to their sexual and reproductive health. He wished to know whether children could refuse to enter into marriages arranged for them by their parents or other adults and what would happen if it was found that a court had reached a decision affecting a child without taking the child's best interests into account. He also asked whether the authorities had reached out to families in an attempt to ensure that children could exercise their right to be heard in the family setting and whether any materials had been developed to help people who made decisions on behalf of children learn to take their views into account.

14. He would welcome information on the main social programmes targeting the large percentage of children living in poverty in the State party. He also wished to know whether the hospital programme designed to ensure that all births were immediately registered had been implemented throughout the country or only in certain areas. If only the latter, were there any plans to expand the programme to all parts of the country? Did refugees have any trouble registering the births of their children?

15. Regarding freedom of religion, he asked whether children had the right to abstain from taking part in religious rites at school and, conversely, whether they could freely express their religious beliefs in school settings. In addition, he wondered whether the State party had a policy of requiring the media to seek permission before broadcasting images of children and whether it had any bodies, such as a children's parliament, enabling children to take part in decision-making processes.

16. **Mr. Guráň** said that he would appreciate clarification on the current status of the State party's Office of the Commissioner for Children. How many complaints from or on behalf of children had it received and how had those complaints been handled?

17. **Ms. Aho Assouma**, noting that the birth registration system appeared to be highly centralized, asked how people living in rural areas managed to register their children and obtain birth certificates for them. She wished to know how much birth certificates cost, whether any plans had been made to deliver them free of charge, in particular for newborn children, and, more generally, what was being done to facilitate the entire process. She also wondered what was being done to ensure that the children of refugees

residing illegally in the State party and children delivered in non-hospital settings were issued with birth certificates and whether any of the birth registration desks that had been opened in 122 health facilities were located in rural areas.

The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.

18. **Mr. Kalaluka** (Zambia) said that amendments to the country's Bill of Rights, which formed one section of the Constitution, required a popular referendum in which more than 50 per cent of eligible voters cast a vote. Such a referendum would be held in October 2016, and if it passed, the Bill of Rights would be amended to include a number of detailed provisions relating specifically to children's rights. Amendments to other sections of the Constitution did not require a popular referendum.

19. **Ms. Sandberg** asked whether the initiative to amend the Constitution's Bill of Rights was likely to pass.

20. **Mr. Kalaluka** (Zambia) said that there appeared to be little organized opposition to the amendments. The challenge was likely to be ensuring sufficient voter turnout.

21. **Mr. Madi** asked whether other amendments to the Constitution, such as the one defining a child as anyone under the age of 18, had been adopted by the National Assembly.

22. **Mr. Kalaluka** (Zambia) said that the amendment establishing the age of majority had not been part of the proposed amendments to the Bill of Rights. It had been approved by the National Assembly and signed into law by the President. The Government preferred to adopt the Children's Code Bill and amend a number of laws, including the Bill of Rights, before proceeding with ratification of the three optional protocols to the Convention. The provision concerning the National Child Council had not been removed from the Children's Code Bill.

23. **Mr. Madi** asked whether the National Child Council would have the authority to coordinate inter-agency efforts to implement the Convention.

24. **Mr. Zulu** (Zambia) said that when the Children's Code Bill became law, the National Child Council would have authority over other official bodies, including ministries, in areas falling within its remit.

25. **Ms. Oteng** (Zambia) added that the National Child Council would have statutory powers.

26. **Ms. Sandberg** asked whether the Council would have the authority over ministries to ensure that they fulfilled their obligations in respect of the implementation of the Convention. She understood that the mandate to coordinate efforts to implement the Convention would not be the Council's alone, but shared with another body. Would sharing the mandate not cause problems?

27. **Mr. Zulu** (Zambia) said that if the National Assembly adopted the Children's Code Bill, appropriate action would be taken to ensure that duplication of effort and conflict were avoided.

28. **Mr. Kalaluka** (Zambia) said that the country's courts had ruled that a body that had been established with specific functions relating to a given area of activity had authority over the activities of other bodies in that area. The aim of the Children's Code Bill had been to bring all laws pertaining to children into a single text.

29. With regard to the claim that the health and education budgets were inadequate, he pointed out that, for the current year, they had in fact been increased substantially.

30. **Mr. Rodríguez Reyes** asked when the Children's Code Bill was likely to be adopted.

31. **Mr. Kalaluka** (Zambia) said that if the referendum approving the amendments to the Bill of Rights passed, it was likely to be among the first pieces of proposed legislation brought before the National Assembly.

32. **Mr. Madi** asked why the Bill could not be submitted to the National Assembly for priority consideration.

33. **Mr. Kalaluka** (Zambia) said that the current Bill of Rights in the Constitution made no reference to children's rights. Thus, to ensure the validity of the new Children's Code, a basis needed to be established for it in the Constitution before it could be adopted. Once the new Bill of Rights and Constitution, containing such references, were adopted, parliament would prioritize the enactment of the Code.

34. The President had appointed the seven new members of the Human Rights Commission. It remained for the National Assembly to ratify the appointments and then for the commissioners to appoint one of their number as Commissioner for Children.

35. **Ms. Sandberg** asked whether any of the commissioners had particular interests or experience that would qualify them for the post of Commissioner for Children.

36. **Mr. Kalaluka** (Zambia) said that careful consideration had been given in the nomination process to all the candidates' skills and qualifications.

37. Mr. Madi said that he would like to know, specifically, how many complaints had been lodged by children themselves with the Office of the Commissioner for Children, how they had been dealt with and what the outcome had been.

38. **Mr. Kalaluka** (Zambia) said that he would supply that information after the meeting. With regard to the application by the courts of the principle of the best interests of the child, he said that the Supreme Court had established a legal precedent by ruling that those interests were always paramount. Hence, any ruling that did not take them into account could be challenged in a higher court. Under the amended Constitution, any customary law that went against its provisions, as did child marriage, would be invalid. Child marriages usually occurred in rural areas and the Government was endeavouring to sensitize all communities to the illegality of the practice. It considered child marriage to be a form of child abuse.

39. **Mr. Madi** asked whether there was any reference in the Constitution to the best interests of the child and to the legal minimum age of marriage.

40. **Mr. Rodríguez Reyes** said he would be interested to know whether there was any specific training programme for judges on the application of the best interests of the child in their judgements.

41. **Mr. Kalaluka** (Zambia) said that the best interests of the child were mentioned in article 61 of the draft Bill of Rights, as was the child's right not to marry or be forced to marry. The minimum legal age of marriage was not stated explicitly, but the age of majority was set at 18 years, meaning that anyone younger than that was a child and so could not marry. Training for judges was an ongoing problem but the Government fully intended to ensure that all officials dealing with children were fully sensitized to children's rights and best interests.

42. Concern about the harmful effects of mining, particularly lead mining in Kabwe, had given rise to the Mines and Minerals Development Act and the Environmental Management Act, which formed a legal framework to prevent mining activities from endangering human life and the environment. Enforcement was not yet satisfactory, but the political will existed to improve it. Due note had been taken of the alternative report by Terre des Hommes Germany.

43. **Ms. Ziela** (Zambia) said that the Zambia Orphans and Vulnerable Children Management Information System (ZOMIS) had been launched recently to provide information that would help in planning for the needs of vulnerable children.

44. **Mr. Zulu** (Zambia) said that the new National Child Policy and Plan of Action proposed a multisectoral approach to improving children's welfare and would allow the children themselves to participate.

45. **Ms. Chitupila** (Zambia), responding to a question on how children's views on sexual and reproductive health rights were listened to, said that the Ministry of Education had established safe spaces in schools where adolescents could discuss those issues and mentors could identify any needs to be addressed. Space was also provided in clubs to help boys to deal with issues of masculinity and thus prevent violence against girls. The only resistance to the initiative had come from persons anxious to avoid cultural change, but civil society organizations were helping to promote its social acceptance. It was true that very few complaints of gender-based violence, especially that committed against children, had led to trials or convictions. That was because perpetrators were often family members of the victims and so it was difficult to convince victims or witnesses to testify, as doing so might deprive them of their economic support or mean going against a figure of authority. DNA testing equipment had recently been acquired and would help provide evidence to avoid reliance on witness or victim statements that might later be withdrawn. A system of fast-track courts had also been launched to reduce the time it took for such cases to be brought to court and thus the possibility of witnesses being tampered with. A specialized unit on gender-based violence had been set up within the National Prosecution Authority and witness liaison officers were available to help children, in particular, feel at ease in the proceedings. It was hoped that the prosecution and conviction rate would improve as a result.

46. **Mr. Rodríguez Reyes** asked whether the new decentralized birth registration system covered rural areas.

47. **Ms. Sandberg** noted that there was still only one central office that issued birth certificates, meaning that they might not be received for a long time.

48. **Mr. Kalaluka** (Zambia) said that the system covered all rural areas as far as was possible and steps were being taken to similarly decentralize the issuance of the certificates.

49. **Ms. Sandberg** said she would be interested to receive specific figures on birth registration, as it was reported to be extremely low. Were there mobile registration units in addition to those attached to clinics and hospitals and what was being done to make parents aware of the importance of registering their child's birth?

50. **Mr. Kalaluka** (Zambia) said that mobile registration units catered for people in remote locations, including refugees, but more awareness-raising was needed to improve the figures.

51. **Ms. Assouma** said she would welcome information on the functioning and funding of the mobile units, the training provided for their staff and whether registration was free.

52. **Ms. Ziela** (Zambia) said that births could also be registered in health centres. Whenever children under the age of 5 were brought in for medical care, the parents were informed of the importance of registering them. Registration was free for those children, although they would need to travel to the health centre or district office. The situation was more complicated for older children, but birth certificates were required for school enrolment, which gave parents another incentive to register their child's birth. Peer educators and theatre groups also worked to convey the message.

53. **Mr. Kalaluka** (Zambia) confirmed that NGOs had participated in the preparation of the periodic report. He went on to say that, under Zambian law, the media were prohibited from broadcasting or publishing of images of children, except in a few special situations where the parents had given their consent. Corporal punishment was prohibited in schools and in all other institutions.

54. **Ms. Aldoseri**, noting that physical disciplining of a child by their parent or legal guardian was permitted, asked if the prohibition on corporal punishment also applied in family settings.

55. **Mr. Kalaluka** (Zambia) said that the prohibition on corporal punishment applied in all settings. While it was true that some parents and guardians might use physical measures to discipline their children, that issue was being addressed through a number of awareness-raising programmes.

56. **Mr. Zulu** (Zambia) said that, since its ratification of the Convention, Zambia had made continuous efforts to raise awareness of the Convention. For example, the Convention had been translated into all seven languages used in the media, and an easy-to-read, child-friendly version of the Convention had also been produced with support from the United Nations Children's Fund (UNICEF). The Government funded radio and television programmes to publicize the Convention. Children's rights clubs, known as "Convention on the Rights of the Child clubs", had been established in almost all State schools.

57. **Mr. Madi** said that efforts to raise awareness about the harmful effects of corporal punishment should be accompanied by explicit legal provisions prohibiting such punishment in all settings. It seemed that loopholes in the current legislation could lead to misinterpretation, and he wished to know how the Government planned to address that problem. Welcoming the State party's new approach to children's rights, he urged Zambia to review its legislation on corporal punishment and bring it into line with the Convention.

58. **Mr. Kalaluka** (Zambia) said that torture and inhumane or degrading treatment were prohibited by law. In some cases, however, light punishments might be used by parents in the raising of their children. The issue would need to be considered by the Constitutional Court to determine exactly which punishments were lawful.

59. **Mr. Rodgríguez Reyes** said that, according to information before the Committee, about 20,000 households in the State party were headed by children. He asked what financial or other support was provided to children living on their own without an adult. He also asked whether the Government had adopted any policies to prevent the exploitation of street children. He requested detailed information about the monitoring of foster families and institutions that provided alternative care for children, and he asked whether there were any policies that sought to provide a family environment for children whenever possible.

60. He wished to know the adoption rate in the country and asked whether there were any mechanisms in place to ensure transparency in adoption procedures and to find the most appropriate adoptive family for each child. He asked whether the State party had compiled and analysed data on the situation of children with disabilities and whether those data had been disaggregated by sex, age, type of disability, ethnic origin and geographic location.

61. He wished to know whether Zambia had adopted an action plan, including specific goals and indicators, to address the situation of children with disabilities. If so, the delegation should indicate who was responsible for implementing and for monitoring implementation of the plan. Were there any plans or programmes to raise awareness about discrimination against children with disabilities and prevent their stigmatization?

Data on the number of inclusive schools and the number of training centres for professionals working with children with disabilities would be welcome.

62. He requested data on the percentage of the State budget that was earmarked for health-care services and on how that percentage had changed from year to year. He would appreciate it if the delegation would comment on the high rate of neonatal mortality in Zambia and describe any policies in place to ensure that basic emergency obstetric care was available throughout the country. Information on policies to improve child nutrition would also be welcome.

63. With regard to adolescent health, he asked what options were available to adolescents who wished to safely terminate an unwanted pregnancy and what measures were in place to raise their awareness about the use of contraceptives. He wished to know about access to antiretroviral drugs for adolescents living with HIV, including in rural areas. Lastly, he asked whether there were any mental health facilities exclusively for children and adolescents and, if not, whether children were separated from adults in mental health facilities.

64. **Mr. Madi**, welcoming the establishment of early childhood education services in some primary schools, encouraged the State party to build on the progress achieved by expanding those services. Noting that, despite the measures taken, the quality of education remained poor in many areas, he said that further efforts were needed to encourage girls to enrol in and remain in school and to improve teacher training in the State party. He wished to know whether human rights education was included in the school curriculum.

65. He asked if it was true that only one afternoon per week was devoted to extracurricular activities in schools. The Committee was concerned to note that many public libraries and parks had been leased to private companies, who sometimes charged fees to access those facilities.

66. He asked whether the new draft Constitution included provisions to strengthen protection for refugees and prevent statelessness. While the Refugee Bill did promise to improve the situation of refugees, it would still impose certain restrictions on them. He recommended a comprehensive review of the Bill with a view to providing legal and procedural safeguards for all refugees and asylum seekers and ensuring that their children had access to health and education services. He urged the State party to withdraw its reservations to the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons and to accede to the Convention on the Reduction of Statelessness. In addition, the State party should review its national legislation to bring it into line with articles 7 and 8 of the Convention on the Rights of the Child.

67. With regard to young persons in conflict with the law, the Committee was deeply concerned that the age of criminal responsibility still stood at 8 years. He noted that there was no law specifically providing for a diversion programme for young offenders. Individuals who could not afford legal representation were at a serious disadvantage, as their cases were often delayed. Prisons and police custody cells suffered from poor infrastructure and overcrowding, and not all detention centres had separate cells for children. He asked how the State party planned to address those shortcomings.

68. He wished to know about the services provided to young children living in the prisons where their mothers were incarcerated. An alarmingly high number of children were involved in child labour, and in many cases they were employed in hazardous jobs that interfered with their education. The Committee would appreciate information on measures being taken to address that problem.

69. Noting that more than 2,400 cases of sexual exploitation and abuse of children had been reported in 2014, he asked how many of those cases had been brought to court, how many had resulted in convictions, and what measures were being taken to protect children and rehabilitate child victims. He wished to hear about the reaction from the public and in the media to the pardoning of Clifford Dimba, who had been convicted of raping a 14-year-old girl. According to information before the Committee, internal human trafficking within Zambia was on the rise. It would be useful to hear about any efforts to prevent such trafficking and to investigate and prosecute traffickers and rehabilitate the victims.

The meeting rose at 1.05 p.m.